

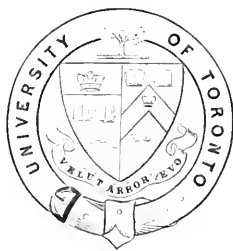
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REPORTS

OF
THE COMMISSION

ON
MUNICIPAL INSTITUTIONS



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FIRST REPORT

OF

THE COMMISSION

ON

MUNICIPAL INSTITUTIONS

APPOINTED BY THE GOVERNMENT OF THE PROVINCE OF
ONTARIO.

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FIRST REPORT

OF THE

MUNICIPAL COMMISSION.

TORONTO, March 16th, 1888.

To the Honourable

SIR ALEXANDER CAMPBELL, K. C. M. G.,
Lieutenant-Governor of the Province of Ontario.

MAY IT PLEASE YOUR HONOUR,—We, the undersigned Commissioners, appointed by commission under the Great Seal of the Province and bearing date the ninth day of December, A.D. 1888, to collect information and report with reference to certain municipal and other matters therein set forth, beg leave to submit herewith our first Report, pursuant to the directions of our said commission.

We have the honour to be,
Your Honour's most obedient servants,

T. W. ANGLIN,
E. F. B. JOHNSTON, } Commissioners.
WM. HOUSTON,

By commission under the great seal of the Province we were directed "to collect and report on, for the information of the Legislature and the Government of the Province, the constitution, government and laws affecting municipal institutions in other countries and Provinces, and the working of the same, and any proposals which have been made and not yet adopted for their improvement with special reference to any material particulars in which such constitution, government and laws, especially in the case of cities and counties, differ from the constitution, government and laws of municipal institutions in this Province, and also to make enquiries with reference to and report on the local machinery in use or necessary to secure the due administration of criminal justice."

The scope of the enquiry we were thus instructed to make is manifestly very wide. We found the material within our reach very meagre. The works on municipal institutions to be found in the Legislative library are few in number, none of them were written for the purpose of facilitating such an enquiry, and nearly all of them were published before some of the important amendments of the laws, which have materially changed the character of the municipal institutions of Great Britain and of many cities in the United States, were made. We endeavored to procure copies of the recent Acts of State Legislatures, and of late works bearing on this subject, and such information generally as we believed to be necessary in order to carry out our instructions fully, but our efforts in this direction have not been as successful as we could wish.

MUNICIPAL INSTITUTIONS IN GREAT BRITAIN AND IRELAND.

As we have derived all our institutions, political and municipal, directly or indirectly from Great Britain, we endeavored to trace the growth and development of municipal institutions in that country, and to ascertain whether anything likely to be beneficial to us could be gathered from its experience or example. We found the task very difficult and not very profitable.

ENGLAND.

The present condition of local government in England, Mr. Goschen described a few years ago as "a chaos of authorities, a chaos of rates, and, worse than all, a chaos of areas." The powers which we believe should be exercised by municipal bodies elected by the people, are there divided amongst local bodies, between which there is no connection, save what has been effected by the control which the local Government Board, created in 1870, exercises over some of them.

For the models on which our institutions are framed we must look to a remote period. In the Anglo Saxon times the mark or tithing, afterwards called township, had, as our township has to-day, its Reeve and four associates, who managed its local affairs and represented it in Wapentake or Hundred mote,* and, when counties were organised, in the Shire mote. At those assemblies justice was done in criminal and civil affairs, and provision was made for the construction of roads and of such other works as were deemed necessary, the greater works being undertaken by the Hundred over whose mote the Hundred man presided, or by the Shire at whose assembly the ealdorman and with him, in Christian times, the Bishop presided. In those days cities and boroughs enjoyed a large measure of self-government conferred upon them by royal charter, or established by prescriptive usage. The commissioners appointed to enquire into the state of the boroughs of England, in 1833, reported that a charter granted by Athelstan, and another by Edward the Confessor, were still extant. It is probable, however, that the rights and privileges enjoyed by cities and boroughs arose from the people's desire for independence, from their genius for self-government, and from the circumstances which forced those communities to act as one for the protection of all.

Those Anglo-Saxon charters, like the many royal and baronial charters issued after the conquest, gave or guaranteed to the citizens and burgesses only the right to elect their own magistrates, to make what laws they thought necessary for the management of the city or borough, to establish markets to carry on their business without interruption and to raise among themselves in their own way the taxes which under various names they were required to pay to king or baron, to abbot or prelate. The only material change the conqueror attempted to make in their constitution was the substitution of a royal bailiff for the port-reeve as chief magistrate. The chief duty of this officer was to collect and pay over the royal tribute. But the cities and towns one after another induced the monarch, by offer of more liberal contributions, to allow them to elect their own chief magistrate, who was then called Mayor. During the long struggle between the king and the great feudal nobles, which, commencing in the reign of the Conqueror, continued for centuries, the cities and boroughs grew in importance and acquired greater privileges. The monarch sought to secure their assistance which often proved valuable, and the barons found it necessary to attach more firmly to their interests the boroughs which held charters from them.

* The public meeting of that time.

During all those years no attempt was made by king or baron to prescribe the manner in which the cities and boroughs should carry on their government or manage their own affairs. All the freemen living in a borough paying scot and bearing lot were burgesses, and all took part in the election of the Mayor and other borough officers, in making the by-laws,* and in the transaction of all other borough business. Villeins † who resided in any borough unclaimed for a year and a day became freemen.

When cities or boroughs, becoming too large to be governed by the decisions of the free burgesses in borough-mote or town meeting assembled, began to adopt the representative system and to elect town councillors is matter of dispute. Corporations, such as afterwards existed in nearly all the boroughs, were unknown until the reign of Henry the Sixth, when ‡ the first corporation was created in Kingston-upon-Hull. The Crown selecting a small body of men conferred upon them the exclusive right to govern the city, to elect from among themselves the mayor and aldermen, to appoint all the officers and hold and control the property and revenues. The aldermen held office for life, and when one died the other aldermen elected his successor. It is worthy of observation that in this reign also, a law was passed providing that none but forty-shilling freeholders should take part in the election of Knights of the shire. This was a very high qualification in those days. Up to that time all freemen were electors. The pretext for the change was "that in many counties of the realm elections have of late been made by very great outrageous and excessive numbers of people, . . . of which most part was of people of small substance and no value, . . . whereby manslaughter, riots, batteries and divisions . . . shall very likely rise and be, unless convenient and due remedy is provided." §

The corporation or close borough system found much favour with succeeding sovereigns. In the earlier feudal times the monarchs found the support of the boroughs useful when the barons could be controlled only by force of arms. When parliaments began to take shape the representatives of the boroughs were summoned to attend them, because the heavy contributions which these boroughs were expected to make to the national expenditure could be more easily obtained when voted by their representatives. Many years passed before they were allowed to take any part in matters of general importance other than that of voting supplies. By holding the purse strings they in time forced their way into a full participation in the general business, and then those kings who desired to control their parliaments found that the representatives of the boroughs might be as useful to them in the House of Commons as the armed burgesses had often been in the field.

For many years, only those boroughs which were called upon by the sheriff to do so sent representatives to parliament. The writ sent to the sheriff || gave him authority to determine at each election what boroughs were entitled to representation. The sheriff appears to have made the selections capriciously, although it is not improbable that he received instructions from the court, and the boroughs, as they had to pay the expenses of their representatives, were in most cases willing to be passed over. In the reign of Richard II. eighty-eight boroughs, which had sent 176 members to the parliament of the previous reign, were not represented. In the reign of Henry the fifth six boroughs previously represented were without representation, and two not previously represented sent members to parliament. Henry the Sixth, in addition to all the boroughs represented in the previous reign, restored the representation to seven boroughs and gave representation to four others. The Tudors added very largely to the number of boroughs represented in parliament and in their time it became the rule that any borough, which was once invited to send a representative to parliament, should on every subsequent election, return a member to the House of Commons. James the First restored representation to sixteen, and created eleven others. Charles the Second was the last monarch to create a

* "Town" laws, as distinguished from national laws.

† The lowest class of feudal tenants, who were virtually fixed to the soil, so that villenage amounted to a species of serfdom.

‡ In A.D., 1439.

§ 8 Henry VI., chap. 7.

|| The shire-reeve, or chief officer with authority over the shire as the town-reeve had over smaller divisions.

corporation entitled to representation in the House of Commons. The process of substituting close corporations for the old system of free borough government was carried on actively during the reign of the Tudors, and in order to make them more subservient to the monarch's will the members of the body corporate were no longer required to reside in the borough. Creatures of the court often formed a majority of the few who elected members of parliament, and to each borough was given a steward or patron, generally a nobleman of the neighbourhood, who named the person to be elected. The servile judges of those times in many cases relieved the sovereign from the trouble of creating corporations by deciding that where no incorporating charter could be found it must be presumed to exist.

If any change were made during the Commonwealth there is no record of it. The Revolution led to no improvement, and the Hanoverian succession brought no change. The ancient rights of the free inhabitants of cities and towns to govern themselves nowhere existed, and they appear to have been wholly forgotten.

The government of counties underwent almost as great a change. The tithing or township became in most cases a parish without much change in its system of government. But when it became a manor and the manor court took largely the place of the township court or mote, other changes quickly followed. The barons, wherever they had the power, took control of all local affairs into their own hands, the sheriff's office in many counties becoming hereditary. To counteract their power and assert his own the king sent his justices into the counties to adjust taxes, collect revenues, and administer justice in the more important cases. In the reign of Edward the Third the counties were divided into districts, and officers called justices were appointed to maintain the peace in each. Various powers were conferred on these from time to time, and various duties assigned to them. Thus gradually arose the court of quarter sessions, with criminal and civil jurisdiction and control of the fiscal affairs of the counties, and the courts of petty sessions. The right of the people to manage their own affairs, and the principle of representation in local matters were no longer regarded. For a time indeed the tithing or parish elected its constable, and the hundred its high constable who was the collector or receiver of rates, but even these relics of an older and better state of things finally disappeared. The parish elected its vestry, and vestries were in many cases employed in other matters than those relating to the maintenance and management of the church building: but select vestries resembling the close corporations in boroughs were in many cases substituted for the vestries elected by the ratepayers.

Representative institutions almost ceased to exist except in name. Even the House of Commons represented but a small portion of the people. The cities and boroughs of England sent 240 representatives to that house before the Reform Act of 1832. The total number of electors was but 126,761. These figures give but a faint idea of what the state of things really was. In some cities the number of electors was comparatively large, but in many it was very small. In Andover the electors numbered only 23; in Banbury 18; in Bath, with a population of 50,817, the electors numbered only 30; in Beaumaris 22; in Brecon 21; in Buckingham 13; in Calne, 19; in Marlborough only 11; in Portsmouth, with 50,389 inhabitants, there were only 49 electors; and so in many other cities and towns of considerable size.

Fourteen places deprived of the parliamentary franchise in 1832 had but 96,050 inhabitants altogether, and those sent 20 members to parliament. An election in most of those places was at that time a mere sham. The patrons of the borough, who were also the principal property-holders, selected the representatives. In counties the number of electors was relatively much larger, but elections were controlled there also by the great landowners, and although the election contests were often very fierce, they lay entirely between the Whig and the Tory landowners and their dependents.

The object of creating close corporations was to secure parliamentary control for the Crown. The powers vested in these corporations were in most cases very limited, and their members appear to have desired no more than to wield the judicial authority conferred by ancient charters, and to divide amongst themselves the revenues derived from lands, tolls, and dues. When it was found necessary to provide for making and repairing streets and sewers, for cleaning towns, for a better watch and better light, for

a supply of water, or for the erection of docks or any other improvement, this was done by a special Act of Parliament creating trustees empowered to borrow money, carry out the work, and levy rates. To this is due much of the confusion that now prevails.

The duties of the tithing and hundred motes were largely judicial, and one of the rights or privileges most eagerly sought, or most strongly insisted upon, by the boroughs during their development was that of electing their own magistrates and trying in their own courts all accused of committing any crime within their boundaries. When they obtained new charters they sought to have this privilege enlarged, and prior to the great reform there were several boroughs in England which, in theory at least, possessed the right of trying before their own tribunals "all felonies not affecting life or member," and some that were authorized by their charters to try even those accused of capital offences. The criminal jurisdiction of the Quarter Sessions had also become very extensive. But for some time those powers had been in abeyance, and all accused of the greater crimes were sent to the assize courts for trial.

The passage of the Act reforming the House of Commons necessarily led to other reforms. The principle that the people have a right to real representation could not long be confined to Parliamentary affairs. One of the very first acts of the reformed Parliament was to reform the government of the cities and boroughs, and to abolish the close corporations which had been created in order to make Parliament at one time a mere machine for giving effect to the will of the monarch, and afterwards the mere creature of one or other of the aristocratic factions. A commission was appointed to enquire into the whole question. In their report they stated that there were 263 places incorporated, or possessed of prescriptive municipal privileges, and that only 178 of these were of sufficient importance to be reconstructed. In 1835 an Act to reform the municipal government of the 178, and to enable other cities and towns to obtain charters giving similar rights, was passed. This Act restored to the ratepayers the power of electing the councils of cities and towns, making all who paid rates on any dwelling, store, shop, or other tenement within the city and town, and who resided in the city or town, or within seven miles of it, electors for all municipal purposes. But this Act did not give to the mayor and council so elected the powers which, to make the reformation really valuable, they should have possessed. It provided only that the trustees appointed under sundry Acts of Parliament for paving, lighting, cleaning, watching, regulating, supplying with water, and improving certain boroughs, or certain parts thereof, might, should it seem to them expedient, transfer all the powers vested in them to the body corporate of the borough. That, in several cases the trustees preferred to retain those powers, is proved by the insertion of a similar clause in the Municipal Act of 1882. The Act provided also that certain boroughs should have a Court of Quarter Sessions, and a Recorder who should be sole judge in civil and criminal cases, the jurisdiction of his court being limited. In other cases a separate commission of the peace was to be issued, but no Quarter Sessions were to be held, and in such boroughs county justices also would have jurisdiction. In other cases the boroughs were to have no special commission. Much importance is still attached to the possession of judicial powers by boroughs, some English writers contending that municipal self-government cannot be regarded as complete where those do not exist. The persons who were known as freemen in the close boroughs were deprived of the right to vote as freemen at borough elections, and of the special privileges and exclusive rights to carry on business; but their right to share as before in the proceeds of certain borough properties, the right in some places to free education for their children, to "exclusive eligibility to certain charities," and other privileges, were carefully preserved, and although it was enacted that no person should thereafter become a freeman of any borough by gift or purchase, yet as the right of the freeman's son, and son-in-law, and apprentice, to obtain a place on the roll of freemen remained, there is no probability that this class will become extinct by efflux of time. To the people of this country it must seem strange that, when a great reform was attempted, all those special trusts were not extinguished, and that the mayor and council elected by the people were not clothed at once with ample power to govern the city fully and to do all its work; strange also, that the rights of those freemen, if rights they could be called, were not at once extinguished by purchase or otherwise. The composition of the council, as provided by the Act, is also

curious. The number of councillors elected in all cases must be a multiple of three, and, in fact, the number varies from 12 to 48. These elect the aldermen from their own body or from the qualified citizens, and the aldermen equal a third of the councillors in number. Aldermen and councillors sit together as one body, and elect one of themselves mayor. This strange system was adopted by Montreal in the earlier days of its municipal existence, probably because it was English.

Of the boroughs named in the schedule of the Act as too small to maintain a distinct municipal existence, a few applied for and obtained charters under the Act. The rest remained "unreformed boroughs," deprived indeed by the Act of much of their power, but still retaining control of the borough property, markets, etc., for nearly fifty years. Perhaps, they were forgotten for the greater part of that time. A resolution moved by Sir Charles Dilke in the House of Commons at length forced the Government to take action, and an Act was passed declaring that they were no longer boroughs, and transferring their property to the care of the charity commissioners. Some of the larger towns which had never been incorporated obtained charters under the Act of 1835, and this increased the whole number of boroughs under that Act to 240. But many large towns have never applied for a charter, either because none of their citizens care to take the trouble or to incur the expense, or because they are satisfied with the government of the local boards established under the provisions of the Public Health Act.

The powers possessed by the councils of cities and boroughs, as such, do not even now greatly exceed those possessed by the old close corporations. The private Acts passed from time to time being found insufficient to provide for the health and comfort of the rapidly increasing populations of the cities and towns, general Acts were passed under which the people of any town were authorized, having adopted such Acts at meetings called in the manner prescribed, to elect a Board of Commissioners to make certain improvements or perform certain services. Bodies known as Local Improvement Commissioners were thus called into existence in several districts. Acts to protect the public health were passed, in which it was assumed that the making, improving, repairing and cleaning of streets, the making and repairing of sewers, the lighting of streets, the supply of water, the superintendence of buildings and other local matters, should be entrusted to boards, known as Local Boards of Health. In several boroughs the Local Board was quite distinct from the town council, and possessed much more power. Besides these, the Vestries and the Boards of Poor Law Guardians exercised large powers, including the power of taxation, and in boroughs which had not Quarter Sessions of their own, the County Sessions levied taxes and exercised other powers. The Overseers of the Poor in several cases collected the taxes demanded in the precepts issued to them by the various boards under authority of the Acts of Parliament.

In 1871 an effort was made to bring order out of this chaos, and to make further necessary provision for the sanitary improvement of many districts by the creation of the Local Government Board, a department of the Government whose members are members of the Privy Council, and whose president and principal secretary hold seats in the House of Commons. To this board was transferred nearly all the authority previously exercised in local affairs by the principal Secretaries of State, the Privy Council, the Board of Trade and the Poor Law Commissioners. In 1872 the Public Health laws were amended by an Act to make the establishment of Local Boards all over England compulsory, and this was amended in 1873, and again in 1875, to render it more effective. The Act of 1875 deals very thoroughly with several important questions. The boards were to be distinguished as urban and rural authorities. Councils of boroughs, local boards wherever they already existed, and improvement commissions were to be *ex-officio* the urban authorities. In some cases the local improvement commissioners were merged in the local board. All the other districts were to be rural, and to be administered by the boards of poor law guardians. The borough councils would sit as local boards to discharge the most important of their duties. The powers and duties of the rural boards are not so great, but they are extensive and important. People dwelling in the country are now required to make proper drains and keep them in good order, to close wells into which sewage or other unhealthy matter may make its way, to provide a supply of pure water, and to take

other sanitary precautions. No new dwelling can be erected until it has been shown to the proper authority that sufficient good water can be had at a short distance.

The powers of the Local Government Board are very great, and in many respects very arbitrary. They determine what the boundaries of all districts outside the incorporated boroughs shall be, and they change the boundaries and divide or unite districts as they please. They send an inspector when they please to the meetings of any of the local boards, and they compel these boards to do, or they do through their own officers at the expense of the district, what they deem necessary. They appoint auditors to examine the accounts of all boards, except the councils of boroughs. No debt can be contracted, or improvement causing debt be made, in either the borough or the district without their approval, and no city or borough can promote or oppose any bill in Parliament without the assent of this board, as well as of a majority of the ratepayers. When they approve of the making of a loan they issue a provisional order, but in every case they must, at the next session of Parliament, procure the passing of a bill to authorize such loan and the increase of taxation which it involves.

In December, 1878, the whole number of urban authorities in England and Wales, including the 240 boroughs, but not including the metropolitan sanitary authorities, was 945.

The County Courts of Quarter Sessions still exist, and their duties are not unimportant. They exercise limited jurisdiction in the trial of criminal cases; they determine who shall or shall not be licensed to keep taverns in all parts of the county outside the boroughs; they maintain and manage the county court houses and gaols; they maintain and control all the roads that are regarded as great general highways, and they maintain and control a police force in each county. The county police, it is said, has become an efficient force of late years, and efforts, successful in many cases, have been made to induce the smaller boroughs to unite in support of the county police, instead of maintaining a small independent force of their own. In several of the laws recently passed additional powers have been conferred, and additional duties imposed upon the Quarter Sessions. The abolition of toll roads, or turnpikes as they call them, have added to their duties. The parishes were required to maintain all the roads within their boundaries, except the turnpikes, and the county maintained the bridges. But when the toll-gates were abolished the parishes felt the burden of maintaining the disturnpiked roads too great, and in many cases they were neglected. Highway districts were created under the management of boards composed of one "way warden" from each parish and all the magistrates residing in the district. The county now contributes one-half the cost of maintaining such of the old turnpikes as are in charge of the parishes, and the government pay to the county one-half of its contribution to the parish expenditure; the government have also relieved the counties of the cost of establishing and maintaining prisons, of one-half the cost of establishing and maintaining lunatic asylums, and of one-half the cost of the police.

The history of the formation of the Boards of Poor Law Guardians, and a description of their powers and the manner in which they are exercised, would be exceedingly interesting, but fortunately the necessity of a poor law establishment on a large scale has never yet been felt in any part of Ontario. The history of the British educational system deserves the most careful consideration.

In creating all these bodies to do the work which should be done by the municipal authorities of counties, cities, towns and villages, each working in its proper sphere and clothed with ample authority, the Imperial Parliament proceeded without system, plan or principle, endeavoring to meet each necessity when it was urgently felt, and apparently without remembering in any case what had already been done, or caring what might be required in the future. The boards to which in these later times it gave such power seem to have been as incapable of systematic procedure, and to have acted as if the work entrusted to them could best be done by disregarding all conditions previously existing. Parliament, in its excessive regard for ancient privileges and prescriptive rights, excepted several places from the operation of its most important acts. Some boroughs are declared not to be boroughs for sanitary purposes. Some large towns, such as Birkenhead and Cheltenham, are neither boroughs nor local board districts, preferring to have their affairs managed by improvement commissioners elected under the Towns Improvement Act of

1874, and the Acts of which that is a consolidation and supplement. The boundaries of the parish are in many cases not coincident with those of the local improvement district, or the local board district, or the poor law union, or the school board district. The inhabitants of a borough may be governed by the town council, the vestry, the burial board, the school board, the poor law guardians, and the County Quarter Sessions; and persons residing in different parts of the same borough may be under different vestries, and other local authorities. The inhabitants of a local government district may "live in four different areas, and be under six different local bodies, five of which may be different for different parts of the same district." These bodies are "elected or appointed in different ways, levying rates on different principles of assessment, and employing for the most part different staffs of officers." "Much of the work of assessment, of rating, and collection of rates," says another writer, "has to be done three or four times over, and usually on different, and sometimes inconceivable principles, to the great injury and confusion of the taxpayers."

Birmingham has for some time been regarded as a model city. The Rt. Hon. Joseph Chamberlain, in an interview with two of your commissioners, described with natural pride the wonderful improvements made in that city within a few years under his guidance. A thorough system of cleansing and purifying the city was introduced. A crowded and squalid quarter of the city was cleared of its ruinous dwellings by use of the Artizans' Improvement Act; broad streets run straight through it, have since become flourishing business streets, and a large number of comfortable dwellings for artizans and labourers were erected on others. The city purchased the gas works previously owned by two companies, and gas is now supplied by the city at sixty cents per thousand, with a profit of £25,000 to £30,000 a year. A water company refused to sell its works, but yielded when the citizens adopted a bill providing for a compulsory sale; and by sinking additional wells and other means, an abundant supply of good water is provided. The city has also established technical schools, an art gallery, and free libraries on an extensive scale, and all these are largely attended. Yet, of this city we are told that it is placed at an angle where Warwickshire, Worcestershire, and Staffordshire meet; and that thirty years ago its area included six different local governing and rating bodies, all of which were happily extinguished by Act of Parliament obtained in 1851, that made the town council the sole authority. At present, the borough includes two parishes and part of a third. One of the parishes is self-contained as regards poor law administration, and has sixty-four guardians of the poor. Another of the parishes forms part of a poor law union belonging to the county of Worcester. The parish of which part is in the borough belongs to a third union. Each has its own rate of taxation, and its own machinery. The school board has another set of machinery, and elections at its own time. The city council has its own machinery, elections, and rates, so that there are five administrative bodies acting separately, and five sets of rates. There are also three different districts for the registration of births and deaths, and the registration of marriages is distinct from all these. Such is the confusion within the borough boundaries. But the population has grown so large that the town has passed over the borough boundaries on all sides. And although "the houses are continuous, the streets and roads lead directly out of one another, the same industries are practised in the manufacturing portions of the several districts, the same class of people reside in the suburban places," although the whole is really Birmingham and all are Birmingham people, yet these districts have their own local boards and school boards, their separate systems of taxation, and their own scale of assessments, and necessarily do imperfectly what would be much better done by one central authority. It is stated that in all England, Nottingham is the only city that has within its borough boundary all that should properly belong to it. In this country such a state of things would not be tolerated; indeed, it could not exist.

To complete the confusion, the city of London remains unreformed. The parliament of Chester was abolished in the 16th century; the usages and forms, still preserved in the counties Palatine, serve but as reminders of what their organization originally was and what its purpose. But London retains its old system almost unchanged in full operation. It is said that 120 of the charters it obtained at various times still retain some force. Charles II. compelled the city to surrender these and accept a new charter, but William III.

restored the ancient charters. The Common Council, consisting of 26 aldermen and 206 councillors, appoints several city officers, and has immediate control of the revenues. Its committees act as commissioners of streets, sewers, markets, etc. The liverymen of the city guilds, acting under authority of special charters, take an important part in the election of mayor and in the government of the city. The Court of Common Hall, an assembly of the members of the guilds, who have taken out their livery, nominate the candidates for the mayoralty and elect the city chamberlain and other officers. The city authorities are conservators of the Thames. The city maintains its own police at a cost of £100,000 a year, and has its own courts of criminal jurisdiction, in which the mayor and aldermen are the judges. Judges of the superior court sometimes assist at the central criminal court. The mayor is also a member of the privy council and chief butler at the coronation. He lives in the Mansion House, has a salary of £10,000, and the city pays other expenses of the mayoralty, which in seven years have amounted to £10,000. The city derives a large revenue from its lands, including the Irish estates owned by its committees and by some of the guilds, from market and other fees, and the duties it still levies on wine, corn and coal, which in 1880 yielded a revenue of £438,946. Of this, however, part goes to the metropolitan board of works. It spends large sums on banquets. One entertainment to a royal prince costs £27,576. The total income, capital and current, in 1880, was £2,350,000. In the vast city, outside the boundaries of the city proper, the police force, numbering generally over 8,000, is controlled by the Home Secretary, who also appoints the police magistrates. The other municipal affairs are managed by the vestries of the parishes and by the metropolitan board of works, composed of three members appointed by the city council, two elected by each of the vestries of the larger parishes, and one elected by each of the smaller parishes, or of the districts formed by a union of parishes. In 1880 the total expenditure of the board on revenue and capital account was £3,841,262. Comparatively few of the inhabitants of London know anything of the men who control this great expenditure. The vestries lay down and repair "drains," repair streets and sidewalks, and attend to all the work that is of a local character. What their expenditures amount to we have not been able to ascertain. Under this strange system the great Thames embankment and the great system of sewers, which make London one of the healthiest cities in the world, have been carried out.

The expenditure controlled by this strange tangle of incorporated cities and boroughs, boards of poor law guardians, improvement commissioners, local government boards, school boards, and other local authorities is enormous, exceeding the total annual revenues of all but four or five of the greatest countries in the world. In 1874-5 the total revenue for all local purposes was £42,735,932. In 1884-5 it was £54,990,234, or about \$270,000,000. This was made up of—

Public rates	£25,666,552
Tolls, dues, fees, rents, etc.....	5,825,578
Other receipts.....	12,357,051
Loans.....	11,141,053
Total.....	£54,990,234

Amongst the "other receipts" was £3,610,219 paid from the Imperial Treasury as subventions, £2,086,249 paid as water rates, and £3,302,119 paid for gas in the many cities and towns which now own and manage their own gas works.

Notwithstanding the large revenues from rates, dues, etc., there was so much to be done when the creation of the Local Government Board gave an impetus to sanitary and other improvements, and the growth of the cities and towns has since been so rapid, that it has been necessary to borrow largely. The debt of all the local government authorities in 1874-5 was £92,820,100, in 1884-5 it was £173,207,968.

Of the amount borrowed, £9,853,795 was expended on highway and street improvements, water works, elementary school buildings, harbors, docks and piers, gas works, poor law purposes, county purposes, bridges and ferries and tramways. The largest of these expenditures was for highway and street improvements, £2,417,975.

The expenditure during the year 1886-7 so far as it was not defrayed out of loans, was :—

Relief of the poor.....	£6,801,656
Paupers, lunatics and asylums.....	1,469,843
Police.....	3,487,933
Education.....	3,190,851
Highways, street improvements, etc.....	5,439,166
Gas works.....	2,429,148
Public lighting.....	867,083
Water works.....	792,624
Sewage, etc.....	916,671
Harbour, docks, etc.....	1,181,023
Other public works.....	435,168
Private improvement works.....	512,515
Principal and interest of loans.....	9,878,531
Salaries, etc.....	1,418,397
Establishment charges.....	389,872
	<hr/>
	£44,053,804

It is not believed that much of these enormous sums is misspent or wasted except in so far as waste is necessarily caused by the multiplication of rate levying, and money-spending authorities. Of corruption and fraud little is ever heard, and there is reason to believe that these vast revenues are honestly if not always wisely administered. Still that a great reformation in local government is absolutely necessary all parties admit.

We have examined several treatises to discover what remedies have been proposed, and what may probably be adopted. In no case did we find the remedies proposed satisfactory or sufficient. The reverence for what are considered vested rights, the respect for ancient usages, however obsolete or absurd, the superstitious fear of changing what is old, or of adapting boundaries, areas, etc., to the circumstances of the times which have done so much to make the legislation of the Imperial Parliament a mass of confusion in the past, influence even the most radical of the English writers on this subject. The simple methods which would at once sweep away completely all that is unnecessary, contradictory, and complex, create convenient areas while adhering in a reasonable degree to old boundaries, create a single authority in each area, clothed with sufficient power for the management of all its affairs, and make those who wield that authority directly responsible to the people, seem to possess some incomprehensible terrors for all who approach this subject. It is said that the Salisbury Government are prepared to introduce a scheme of reform, and that this has the approval of the party known as Unionists. We have no reason to expect that it will be the simple, comprehensive, reasonable scheme which would practically settle this great question. The people will have cause to rejoice if it go much further than previous reforms have gone, towards giving them a real control of their affairs, and reviving that interest in local government which is admittedly less keen and intelligent still than it was a thousand years ago.*

SCOTLAND.

In the cities and boroughs of Scotland, as in those of England, the magistrates and town councillors were in the earlier days chosen by the resident burgesses and the proprietors of houses and lands within the borough. Between some of the principal borough unions were formed for the promotion of commerce. In 1469 close corporations were created in all the cities and boroughs by an Act of the Legislature. The members of the councils then appointed were invested with the power to elect their successors, and an Act of 1474 ordained that at least four members of the old council should be "annually chosen into the

* Since the text of this report was written the president of the Local Government Board has introduced into the Imperial House of Commons a local government Bill, which, if it becomes law, and if its tenor has been correctly given in summaries contained in cable despatches, will remove many of the anomalies above referred to, and place municipal government on a really popular basis in both boroughs and counties.

new council." The immediate object of this was, as in England, to give to the Government the control of the elections of the representatives of those boroughs in Parliament. Another effect of it was that the members of the council learned to regard the property and revenues of the boroughs as their own. An old writer* says: "Every city or burgh had certain estates in lands, houses, fisheries, post dues and other valuable sorts of property, the revenue arising from which was by their original charters and constitutions destined to be applied for the benefit of their communities. But as soon as the magistrates acquired the power of electing themselves in perpetuity they administered, embezzled, and dilapidated their estates at pleasure." Of all the Scotch cities, Edinburgh was the only one that had a representative to itself after the Act of Union. By that Act other cities and boroughs were arranged in groups of five or four. Each member of the group chose a delegate, and those four or five delegates elected the member of Parliament. But the number of electors who chose the delegates was small, in some cases only nine, and in only one case exceeding thirty. The total number of electors in Edinburgh was only 33. The total number of electors in all the other boroughs was 1,220, and these elected fifteen members to Parliament. The numbers of electors in the counties were relatively even smaller. The qualification prescribed by an Act of James I. of England, was a forty shilling freehold "of the ancient extent," and the words "ancient extent" were so interpreted that only persons possessed of a considerable amount of property in freehold were electors. The total number in all the counties entitled to elect representatives in 1812 was only 2,354. Thus, only 3,754 electors were permitted by law to take part in the election of all Scotland's 45 members of Parliament.

In Scotland, as in England, it was found necessary to pass several special and general Acts of Parliament to provide for the proper sewerage, drainage, lighting, etc., of cities and towns. The most important of the general Acts was that of 1830.

The reformation of boroughs in Scotland was begun very much as in England, the chief reform being the restoration to the resident ratepayers of the right to elect the councils of the cities and boroughs. In one respect, considered very important, the government of the Scotch boroughs differs materially from that of the English. The town council choose from their own ranks a Provost and a number of Baillies, proportionate to population, and these are the magistrates of the borough, and act as "Commissioners of Supply." A stipendiary magistrate has been provided for Glasgow by a special Act of Parliament,† but in all the other boroughs the elected magistrates try the ordinary justice court cases, the sheriff giving some assistance in Edinburgh.

Of the Scotch boroughs seventy claim to rank as Royal because their charters were granted by the Crown. Twelve boroughs, with large populations, are divided into wards. The members of the council number from sixty in Glasgow to some half a dozen in the smaller boroughs. The opening and improvement, the cleansing and lighting of streets, and the making of sewers were formerly carried on by trustees under special Acts or by special commissioners, but these have in most cases transferred their powers to the councils, who, however, do not wield all those powers as the councils of the boroughs. Their members sit as police commissioners, borough road trustees, local authorities under the Public Health Acts, the Weights and Measures Acts, etc., as circumstances require.

The expenditures for sanitary purposes under the Act of 1867 have been considerable, and have been productive of much good. The total expenditure for these purposes from August, 1867, to May, 1881, was £1,572,417, of which £199,028 was expended upon drainage, £522,982 upon water supply, and £246,541 upon hospital accommodation.

The police force in the Royal boroughs is under the command of acting constables, appointed by the magistrates and town council. The small boroughs, called police boroughs, have in most cases united with the counties for police purposes. Many of the smaller towns have availed themselves of the provisions of the Act of 1830, passed to provide for the better watching, cleansing, and lighting of towns and populous places, and of a similar Act passed in 1862. Those towns which have availed themselves of either of those Acts, and are not Parliamentary boroughs, are designated police boroughs. There are ten such boroughs and they are governed by police commissioners numbering from six to twelve,

* Oldfield's "Representative History."

† 38 and 39 Vict., chap. 81.

who are elected by the ratepayers, and who have power to levy assessments for sanitary and police purposes.

The expenditure in all cities and boroughs is met, as far as possible, out of what is called the "Common Good," that is the revenue from the town property, and the tolls levied on goods that enter the town for sale. A toll, called the "Causeway Mail," was levied on all wheeled traffic passing over the streets, but the abolition of this, made optional in 1870, was made compulsory in 1878, when the tolls on all roads and bridges throughout the country was abolished by Act of Parliament. What more is required for borough expenditures, and to meet the borough's share of land tax, the maintenance of militia buildings, and other local outlays is raised by a rate levied in the usual way.

The union of boroughs, formed some six hundred years ago for mutual support and for the protection of commerce, still exists in form. A convention of royal boroughs, represented by one member and the assessor from each, meet in Edinburgh every spring to discuss matters of common interest.

The trade guilds, which in the English boroughs often sought to exercise complete control and sometimes, countenanced by the Sovereign or the baron, succeeded, appear to have retained some remnant of their influence longer in Scotland. In the reformed councils of Edinburgh, Glasgow, Dundee, Perth, and Aberdeen, the Dean of the Guild brethren of the city claims and occupies *ex-officio* a seat. Some years ago some of the citizens of Aberdeen sought but failed to exclude the Dean of Guild from the council of that city.

The county organization is still very peculiar. One of the chief county authorities is that of the Commissioners of Supply, whose members are neither elected nor appointed, but act in virtue of their being owners of land and heritages to the value of one hundred pounds and upwards. The eldest son of a proprietor whose rental is £400 a year or more, may act as a member, and the factor or agent of a proprietor whose rental is £800. The Commissioners annually elect a chairman, who is called the Convener of the county. Originally this board collected the national revenue, including customs and excise duties. Now they levy the land tax and the assessments for general county purposes, manage the county police, dispose of appeals under the Valuation of Land and Heritages Act, and have charge of the militia organization. They complain of having to provide militia stores and accoutrements. The character of this body has not been changed. The county officials, who, it seems, are appointed by this body, are the clerk of supply, the treasurer, collector, and auditor. Under the Act 42, Geo. III., a Lord-Lieutenant is appointed in each county, and he nominates justices of the peace, who try cases of petty assault and other breaches of the peace, take affidavits, sign warrants, and in some districts, assisted by nautical assessors, hold courts of enquiry into shipping disasters. They have control of the licensing system, and before them all offences against the license laws are tried. They are also the local authority under the Weights and Measures Act of 1878. There is a right of appeal from the decisions of individual justices to the court or quarter sessions of all the justices. The clerk of the peace for the county, who is appointed by the Crown, acts as legal adviser to the justices.

The sheriff holds a very important position in Scottish counties. The sheriff principal, who in some cases holds the position in more than one county, acts through the sheriff's substitute, who must be lawyers of not less than five years' standing. They are statutory judges under the Registration of Voters, the Police, Lunacy, Education, and Public Health Acts, conduct the elections of members of Parliament, and have *ex-officio* seats on all the county Boards. The prosecutor in the sheriff's court is the procurator fiscal, who is appointed by the sheriff with the approval of a Secretary of State. There is also a procurator fiscal in the justice of peace court. It has often been asserted that justice halts in England and in this country because there is no officer in either whose duties are precisely analogous to those of the procurator fiscal.

Another important county organization is that of the road trustees, in whom is vested the management of all the roads in the county and in boroughs whose population does not exceed 5,000. The trustees are the commissioners of supply, and representatives from each parish and borough, who number two from each parish or borough in which the number of ratepayers does not exceed 500, three from each exceeding 500 but under 1,000, and four

from each over 1,000 ; they are elected once in three years. The trustees elect a county Board of 30 members, and have the right to levy rates. There have been many changes in the composition of this body, and there is still much dissatisfaction, although the principle of representation is now less grossly violated than it was for many years.

There are besides boards dealing with lunacy, prison, police, weights and measures, land valuation, registration of voters, court houses, and contagious diseases of animals. Scotland is divided into 22 lunacy districts. The boards for the management of these, under a general board of commissioners, are appointed by the Commissioners of Supply, the magistrates of the county, and those of royal and parliamentary boroughs. The prisons now maintained by the government are managed by commissioners appointed by the Crown, but the county authorities appoint a visiting committee. Police affairs are managed under the County Police Act of 1857, by a police committee appointed by the Commissioners of Supply, on which may also sit the representative of any borough joined to the county for police purposes. The committee appoint, subject to the approval of a Secretary of State, a chief constable who has the selection, control and disposal of the rest of the force. An inspector, appointed by the Crown, inspects the force once a year, and when he certifies that it is efficient one half the cost of its maintenance is paid from the Imperial exchequer under the Act of 1875.

The justices in Quarter Sessions appoint the inspectors of weights and measures. The Contagious Diseases Act is administered by a board composed of Commissioners of Supply nominated by the whole body of farmers elected by such of that class as occupy land of over £100 yearly value, and of owners of land worth £50 a year. The Lord-Lieutenant, the Convener of the county and the sheriff are *ex-officio* members of this board. In towns the magistrates and town councils form the local authority.

The sheriff, clerk and county assessor make up the list of qualified parliamentary electors. The commissioners of supply and the magistrates of royal and parliamentary boroughs appoint an assessor to make up the valuation roll for assessment purposes. Generally the actual rent is taken as the basis. Rates to cover such portions of the expenses in all these cases as fall upon the county are levied by the commissioners of supply.

But the chief organization in the rural districts of Scotland has for centuries been parochial. The civil does not in all cases coincide with the ecclesiastical parish, but the cases in which they vary are few. How old the parish boards are no one can tell. In the seventeenth century there were 980 parishes in Scotland, but several of these were afterwards amalgamated. In parishes of which the area was very large, or in which the population became dense, divisions for convenience were introduced and were known as *quoad sacra*. For poor law purposes the old civil parish limits are adhered to. The Education Act of 1872 recognises, for convenience sake, the *Quoad Sacra* divisions.

In the old Scottish parish the heritors supported the kirk, manse, and burying ground, and a school and teacher. The clergyman took part in the management of the school. The first powers of assessment for poor relief were conferred on the kirk session about 1600. In royal boroughs the magistrates shared in the management of the poor. In landward parishes the heritors and kirk session had charge of them. At present the Poor Law * is administered by Boards composed in eight burghal parishes of four persons nominated by the kirk session, and four by the magistrates, and of members elected by the ratepayers, varying in number according to the population from four to twenty-five. In non-burghal parishes the board is composed of all owners of land or heritages in the parish of the yearly value of £20 upwards, from one to six members elected by the kirk session, from two to five members representing the magistracy, if there is a royal borough within the parish, and members elected by the ratepayers, according to their numbers. The heritor may act by mandatory. A Board of Supervision consisting of the Solicitor-General, the Lord Provosts of Edinburgh and Glasgow, the sheriffs of Renfrew, Ross, and Perth, and three persons appointed by the government superintend those boards. This seems an exceedingly complicated system, and the complication appears to have arisen altogether from the excessive respect for old usages and vested rights that characterizes so much of the legislation of the Imperial Parliament.

* Of 1845.

Parochial Boards are also charged with carrying out the provisions of the Public Health Act in the landward parishes. They are required to provide for the inspection and removal of nuisances, to take steps for preventing the spread of disease, to erect hospitals when needed, to regulate common lodging houses, and to attend to sewerage, drainage, and water supply. The money requisite for these purposes is levied and collected with the poor rate.

It is evident that although the municipal government of Scotland is not so utterly chaotic as that of England, there is much room for improvement in it also. Numberless amendments have been proposed, but in no case have they as yet taken the shape of a comprehensive scheme, systematizing and simplifying what is now so complex and confused. The chief difficulty of those who have given much attention to the subject, appears to be that of giving sufficient protection to property, and especially to property in land with full popular participation in the rights of local self-government. Both in England and in Scotland there appears to be a morbid dread of giving to village communities control of the rates, which must be paid chiefly by the large land owners and large farmers. Indeed, some go so far as to assert that the proprietors ultimately pay all the rates, unless where the tenant has a long lease at a low rent. Little or no difficulty on that score is experienced in our municipalities.

IRELAND.

From the time of the invasion under Henry II., the character of the boroughs in Ireland, and their history, resemble very much those of the English boroughs. Indeed the inhabitants of the boroughs, or at all events those who managed their affairs, were for many generations mainly English or the descendants of Normans and English. Several places of little importance were often called on to send representatives to Parliament, in order to support the government against the large landed proprietors of the Pale, who sought to become independent of the crown in all but name. Afterwards the close corporation was found a useful instrument. At the time of the union the right of many small boroughs to send members to parliament was abolished, and for this the great landowners were compensated by large cash payments, as if for loss of property. The corporations, however, continued to exist, the heads of the corporations of the smaller towns being known as sovereigns, provosts, port reeves, bailiffs, etc. The close corporation was more offensive than in England, as Catholics, who formed the great majority of the population in nearly all the cities and towns, were completely excluded. In Ireland, as in England, a great number of special acts were required to provide for carrying on local improvements and cleaning streets and sewers, etc., and general acts were passed to give to cities and towns opportunity and power to provide in a general way for such services. Under one of these Acts, passed in 1828, several towns elected commissioners. On the requisition of twenty-one inhabitants dwelling in houses worth £20 a year, a meeting was called at which residents dwelling in houses worth £8 a year were entitled to vote on the adoption of the Act. These were high qualifications in the smaller Irish towns. It was not until 1840 that an Act was passed to reform the government of Irish cities and towns. This swept away the close corporations, but in other respects it was not so liberal a measure as the English Act of 1835. Only a male British subject of full age, who had been resident in the city or borough for six calendar months before the list of electors was made up, and who as tenant or owner had occupied for at least one year before the last day of August in each year a house, warehouse, counting house or shop, in part or in whole, of the yearly value of ten pounds for the part so occupied, and who had paid all rates, was entitled to vote. Efforts to reduce this high qualification were repeatedly made in parliament. They were long unsuccessful. In 1876 this and other matters were referred to a select committee, and in 1878 a reduction to a £4 poor law valuation was recommended. This would have been but a partial remedy, and a large proportion of householders, especially in the small towns, would still have been excluded from the franchise. In Dublin the franchise was assimilated to that of English cities by the Act of 1849, and in

towns which adopted the Improvement Act of 1854, the qualification of electors was made the occupation of a house rated at £4. The constitution of the borough councils was different from the English. The burgesses elected the number of aldermen and councillors fixed in each case by the Act. In Dublin it was 60, in Cork 51, in Belfast 34, and the one-fourth of the elect in each ward who received the greatest number of votes were the aldermen; the term of office was then three years. After the first election held under the Act, one-third of the councillors were re-elected every year, and one-half the aldermen went out every three years. Aldermen and councillors elected the mayor from the council annually. The burgesses of the whole borough elected two assessors and two auditors every year from the burgesses possessing the qualification of councillors. Any town having more than three thousand inhabitants could apply for a charter under this Act, and in all boroughs and towns that became incorporated the powers previously held by commissioners elected under 9 George IV. were transferred to the borough councils. Trustees holding such powers under special Acts were authorized, but not required, to surrender their powers to the council, and many exceptions were made. The Blue Coat hospital was withdrawn from the control of the Dublin corporation, and a corporation was created for its management. The rights of "the governor and assistants of London of the new plantation in Ulster," were reserved; so were the rights of those who held manor courts in any of the boroughs. The recorder of Dublin received the powers previously exercised by the Dublin sessions court, and courts of requests or of conscience for the recovery of small debts were continued or established. The borough councils were empowered to pass by-laws for good government, the suppression of nuisances, etc., but the limits of their power in this respect were narrow, and no by-law had effect until forty days after a copy had been transmitted to the Lord Lieutenant, by whom it might be disallowed. With a few exceptions, the officers appointed by a borough council may be displaced by the Lord-Lieutenant without compensation. Few towns sought incorporation under this Act, and other Acts were found necessary. The principal of these are the Towns Improvement Act of 1854, and the Local Government Act of 1871. One of the chief additions to their powers obtained by the councils of cities is that of nominating three persons each year, from whom the Lord-Lieutenant must select the sheriff. The right to assume the control of works previously managed by county authorities is also important.

The administration of the fiscal affairs of Irish counties differs widely from the English and Scotch systems. There are no county Quarter Sessions as understood in England. Instead, a court is held periodically at each of the towns in a county or riding, at which indictable offences, except certain felonies, are tried, and all matters relating to the giving, continuing, or withdrawing of tavern or public house licenses are determined by such magistrates as choose to attend, presided over by a barrister holding a life appointment, who is called the chairman or assistant barrister. All the criminal cases are tried by a jury, after a bill of indictment has been found. The barrister sitting alone as judge tries civil actions for debt under £20, and other minor civil causes. Each county is divided into petty sessions districts, in which the magistrates hold court usually once a week, and some cases can be disposed of summarily by a single magistrate.

The fiscal authority is the Grand Jury of the county, which sits twice a year, meeting to dispose of fiscal matters some days before the assize court is opened. The members of the grand jury are selected by the sheriff, who is bound to take one £50 freeholder or £100 leaseholder from each barony, or division of a barony. If these do not number 23, he may find the others possessing a like qualification where he pleases. The grand jury so selected appoint the county surveyor, the county treasurer, the baronial high constables, who are the collectors of county rates, and other officers. They decide upon the recommendations made by presentment sessions, determine what works shall be done or repairs made, and decide what rates shall be levied to meet the cost of these, and to cover what are called the imperative presentments, *i.e.*, for the support and conveyance of prisoners, the payment of interest and sinking fund on moneys lent to the county by the government board, &c., and other county expenditures, and they audit and pass the accounts. Unless while the grand jury is in session the municipal affairs of the county are entirely in the hands of the county officials. Application may be made to the judge of assize to set aside any

order made by the grand jury. The presentment sessions is composed of such of the magistrates of a barony as choose to attend on a day named, and of a few of the principal ratepayers nominated by the grand jury at its previous session. It would be absurd to call such a body in any sense representative, yet it recommends the expenditure of large sums, and the rate of taxation in each barony is largely determined by its recommendation. It is matter of never ending surprise, that with such a system the Irish roads should be as they are, as fine as any in the world.

The police force in Ireland is really a military body, and except, perhaps, the Dublin police, is entirely under the control of the government. It numbers about thirteen thousand men, uniformed, drilled, and fully armed, who live in barracks, and are moved from station to station as the police authorities appointed by the Lord-Lieutenant direct. For some time after this force was established under the Act introduced by Sir Robert Peel, then Irish Secretary, the counties and boroughs contributed to their support; but it has since been made more completely an army of occupation, and the entire charge is now borne by the government. When an additional force is for any reason sent to any district, the cost is charged to the district, and the grand jury are required to include the amount in the sum they order to be assessed. The government also appoint a number of stipendiary magistrates, to whom districts are assigned. These are in constant communication with "the Castle," and do such special work as is assigned to them, such as presiding over evictions and suppressing proclaimed meetings. The police attend the petty sessions, make arrests under warrant or judgment, take charge of prisoners, and perform other functions under instructions from the magistrates.

The national school system is completely controlled by the Castle Bureau. There are a number of unpaid commissioners supposed to represent the different religious denominations, whose duty it is to determine what the education shall be and to give some direction to the system, but the actual control resides for the greater part in the paid officials.

The Poor Law system was not introduced into Ireland until 1838. It is managed largely by the Local Government Board, which is a branch of the Irish Secretary's department. The country is divided into unions, not of parishes, but of districts, which do not conform to the boundaries either of parishes or of counties. There is a board of guardians for each union, composed of three elected for each district by the open voting-paper system, and of *ex-officio* magistrates, who are magistrates selected by the government, and equal to at least one-third of the elected guardians in number. The guardians regulate admission to the work-house and outdoor relief, make a valuation by their own officers, levy such rates as are necessary and appoint the union officials. But they are much under the control of the Castle authorities, who, under some circumstances, may dismiss the whole board and appoint paid guardians to carry out their orders.

Ireland is also divided into lunatic asylum districts, the local authority of which consists of a board nominated by the Lord-Lieutenant the management being chiefly in the central authorities. There are thirty-one harbour districts, in some of which the authorities are elected by the ratepayers; in others the authorities are partly nominated, partly elected. The gross revenue of all the harbours in 1879 was £486,453, and £200,000 was spent in improvement and maintenance. Local drainage boards elected under the Act of 1863 c. 88, carry on arterial drainage to some extent with money lent by the treasury to be expended under the supervision of the board of works. The boards are authorized to levy rates on the lands benefited to pay off the loans with interest in twenty-two years. There are also four navigation districts in which local boards control the inland navigation routes. A system of medical relief through free dispensaries was transferred from the counties to the poor law unions in 1851. The poor law unions are divided into dispensary districts managed by a committee, the number of which is fixed by the local government board. There are 1,088 dispensary stations attended by 800 medical officers and 260 assistants.

The total taxation of Ireland for local purposes in 1879 was £3,368,113. This included little or nothing for schools or police. The Imperial government spent in that year on services, local in their character, £2,384,045, of which £1,097,192 was for

police and £571,296 for schools. The expenditures under these heads have since been greatly enlarged.

Even in local matters Ireland possesses little power of self-government. Indeed outside the cities and boroughs self-government nowhere exists unless in the Poor Law Boards, and these have really little freedom of action.

MUNICIPAL INSTITUTIONS IN EUROPE.

We endeavored, in order to discharge fully the duties entrusted to us, to ascertain to what extent local self-government exists in the principal countries of continental Europe, and whether there is any thing in their municipal laws which it would be well for this Province to adopt.

GERMANY.

As soon as society emerged from the flood of barbarism in which the Roman Empire was submerged, free cities and chartered cities and boroughs rose and played an important part in Italy, Spain and France. At a later period the cities of Holland and Belgium (the Low Countries) took a large share in the making of history. If, as some contend, the Anglo Saxons did not merely engraft their own principles upon the municipal system established by the Romans in Britain, but brought with them the germ of our free municipal system, it would be interesting to ascertain what has been the development of that system in the countries in which it is said to be indigenous. Cologne and Treves retained much of the Roman system long after the power of Rome had passed away. In the other cities of the once formidable Hanseatic League perhaps the system was purely German. But we have not been able to learn much of the merely municipal government of Hamburg, Lubeck, and Bremen, which maintained their independence until they were absorbed by the lately formed German Empire. A gentleman who spent some time last summer in Berlin gave us some interesting information as to the municipal government of that city. It corresponded with what we are told of the system which Frankfort on the Maine adopted in 1867, and which is said to be Prussian. The electors of that city choose fifty-four representatives for a term of six years to manage their municipal affairs, and every two years a third of the number retire, but these are eligible for re-election. The fifty-four representatives elect twelve town councillors, six of whom receive a salary and serve twelve years, while the other six receive no salary and serve six years. The chief burgomaster is nominated by the king, and the second burgomaster must receive the king's recognition. We have not seen a description of the powers and duties of the council. In Switzerland, notwithstanding the many constitutional changes which have taken place in that country, and its subjection at one time to French and at another to German influences, the smaller cantons still hold public assemblies of the whole people for the election of officers, and for the performance of all their public duties. An eminent English historian thinks that this is a survival of the old Teutonic system, others contend that it is Scandinavian; but small communities carried on their public business in some such fashion even in a much more remote antiquity.

FRANCE.

The French system of the present day is the very antithesis of the English in many respects. The great Revolution swept away all old customs and usages, and all traditions and old time ideas. The country was mapped out anew on strictly mathematical principles, and a system of government supposed to be thoroughly scientific was framed. Old customs and usages, it is true, were not easily extinguished, but no respect was paid to

them by those who made or administered the laws. At the same time the difficulty which the ownership of the land by a few seems to create, was removed by the distribution of nearly all the lands amongst millions of small proprietors. The system might have worked admirably if the Government whether Republican, Imperial, or Kingly, had not thought it necessary for its own maintenance to obtain control of all the municipal bodies. The desire for centralization appears to be quite as strong under the Republic of to-day as it was when Napoleon the First or the Third was emperor. That the system works well, despite this centralization, seems to be proved by the condition of the streets and sewers of the cities and of the highways throughout the country.

France is now divided into 87 departments, 362 arrondissements, 2,865 cantons and 36,000 communes. The prefect who is the chief officer of the department is appointed by the government. He controls the police, maintains order, collects taxes levied by the general government. He is assisted by a council-general elected by universal suffrage and a council nominated by the government. The council general assess taxes, authorize the sale and purchase of property, authorize new roads, railways and canals, vote the budget for charitable and sanitary institutions of the department, and under the law of 1872 are clothed with large political powers.

The sub-prefect exercises similar powers in the arrondissement on a limited scale, and he is assisted by a council composed of one member from each canton.

Each council has its commissary of police, who is appointed by the prefect for towns of not more than six thousand inhabitants, and for large towns by the central government. He is supposed to be under control of the mayor, but "he is at once a governmental, judicial, and municipal agent."

The commune is the administrative unit. The mayor is head of the commune. If the inhabitants number 2,500 there is one deputy mayor, if more than 2,500 and less than 10,000 there are two. In towns of from 10,000 to 30,000 there are three deputies and for every additional 20,000 there is another deputy. The mayor represents the central power in the commune and is registrar of births, marriages and deaths. In large towns he is appointed by the central government, but he must be chosen from the council of the commune elected by universal suffrage. This council has the same power and privileges with regard to the officers of the commune that the council-general has in the department.

The French farmers, who are very frugal and careful of their money, probably take an active interest in the affairs of commune and department, while willing that in matters of general government the instructions issued by the general government to prefects and mayors should be carried out. It may be that pressure from the central authority, although essentially objectionable, serves a good purpose in so far as it causes them to undertake works of improvement from which if left to themselves they may shrink. How the system works in cities cannot easily be learned. Paris is admittedly the model city of the world in many respects. Its streets are the finest and cleanest, its public buildings, quays and bridges the most beautiful, its places of recreation admirably kept. The districts which for ages bred pestilence and revolution now rival the finest parts of the city in magnificence. There is nothing in modern Europe to compare with its excellent system of sewers, by which the sewage is carried far below the city, and the Seine is kept so free from defilement that the washer-women ply their vocation in barges moored off the quays. How much of this is due to the system, how much to the genius of the people, how much to the pride, ambition or public spirit of the rulers it would be difficult to tell. But when the cholera visited the south of France, a few years ago, the condition of some of the large cities in that quarter was said to be unspeakably filthy.

Paris is divided into 20 arrondissements, and each arrondissement into four divisions. Each division elects one member of the municipal council. The functionaries of the arrondissement are a mayor and three deputies nominated by the Prefect of the Department of the Seine. The deputies act as registrars, and preside over the poor relief bureau. A justice of the peace is appointed for each by the government. The city has no mayor. The council elect a president who merely acts as chairman of their meetings. When it seems necessary, the Prefect discharges the functions of mayor. The municipal

council discuss and vote the budget, but they have no power to refuse to make appropriations for any service, the maintenance of which legally devolves upon the city. Should they attempt to refuse, the Minister of the Interior may, of his own authority, insert the item in the city budget. He may also appeal to the head of the state to cancel or disallow any decision in which the council exceed their legal powers. The Prefect of the Seine, besides the duties discharged by other prefects, controls important municipal services. Elections, rates, municipal debt, city schools, public lands, municipal buildings, markets and market places (in respect to the collection of dues) cemeteries, roads and streets, public edifices, water works, sewers, promenades, and plantations, river navigation and river ports, pawn offices, and the relief of the poor are all under his control. A prefect of police, whose authority extends over the whole department, is also appointed by the government. The police force controlled by him are divided into three sections—political, of public safety, and administration. The service costs about £800,000 (four million dollars) a year, and of this the government pays two-fifths. The municipal section deal with public health, civil order, and repression of crime, and exercise surveillance over lodging houses, the insane, street walkers, over the markets, the fire department, public vehicles, sanitary arrangements, cemeteries, interments, etc. The prefect of police has under his command 8,500 police officials, 1,242 firemen, the Republican guard numbering 3,295 men, and a mounted force of 726.

The expenditures, which are all voted by the municipal council, amounted in 1882 to £10,489,373. A large part of this goes to the extinguishment, by payment of terminable annuities and otherwise, of the enormous debt of £171,730,965 created chiefly to pay for the extraordinary improvements made by Baron Haussman, who, when Prefect of the Department of the Seine, transformed a great part of the city by command of Napoleon III. The emperor, it was said, was influenced quite as much by military as by sanitary considerations. The chief expenditures besides the interest on the debt are:—

Police	£950,000.
Streets	999,000.
Education	890,000.
Poor Relief	795,000.
Water Works and Drainage	520,000.
Public walks, plantations, lights	392,000.
Collection of octroi	296,000.
Mairies and councils	337,000.
Architecture and arts	212,000.

The chief sources of revenue are the octroi-taxes* on the food, the beverages and other liquors, the fuel, building materials, wood, and fodder that seek a market in Paris. The total revenue from these sources was £5,996,802 in 1882. Nearly one-half—£2,566,118—was yielded by the taxes on beverages. The communal centimes yield £948,805; the city's share in the profits of the gas companies, £604,000; and the duty on gas, £225,250; water rates amounted to £442,867. The revenues from cab stands, markets, slaughter houses, the citizens' street cleaning tax, (£108,416), warehouses, charges for paving, for cleaning sewers and streets, government subsidies, etc., make up the rest of this vast income of some fifty millions of dollars a year.

In the work of maintaining and cleaning the streets 320 overseers, engineers and time keepers, 2,123 pavers and roadmen, and 3,185 scavengers were employed. The maintenance of the streets cost £406,800, the pavements and sidewalks £62,224, and cleaning £259,840. The streets are nearly all paved; the great thoroughfares and the crossings being laid with Belgian porphyry. Some streets are metalled, some are laid in asphalt, and a few in wood. 5,070 plugs furnish water for watering and cleaning the streets. The sweeping of the streets is the duty of the householders, but they generally pay a commutation tax for street services.

*Very similar in their nature to our market fees, but collected at the city gates as tolls are collected here on highways.

The supply of water for domestic purposes is obtained from a number of small rivers and from other sources, and is abundant and good. Although the main sewer system is so good, some 70,000 houses still depend on the services of the public scavenger for the removal of night soil, etc.

We have not heard of any change in this system proposed in any quarter, except that the majority of the municipal council of Paris continue to demand that their city shall have a mayor clothed with the powers needed for municipal purposes, now vested in the prefect. It is said that they will endeavour, in proof of their earnestness, to prevent the prefect and his staff from establishing themselves in the new Hotel de Ville. As their objects are said to be revolutionary, there is no probability that their demands will be complied with.

There is not much in any European system respecting which we have been able to gather information, that the people of this province would care to adopt even as an experiment, although probably much may be learned from the manner in which the principles on which such institutions must rest everywhere are worked out in some of those countries.

MUNICIPAL INSTITUTIONS IN AMERICA.

UNITED STATES.

We find a more profitable field for enquiry in the United States. From that country we have more immediately received our system, at least in outline. The circumstances of the people of that country more nearly resemble our own in urban and in rural districts, and we may reasonably conclude that whatever works satisfactorily amongst them is not wholly unsuited to us.

The township system, as distinguished from what is sometimes called the county system, was adopted in New England from its very first settlement. How this came to pass nobody seems precisely to know. That system had become obsolete and almost forgotten in England, and there appears to have been no attempt to restore it during the time of the Commonwealth. Still it was admirably adapted to the religious system of the Independents or Congregationalists, who were the first settlers, and to the character of the region in which they settled. The first settlements were hamlets, in which the one meeting house served for all religious and civic assemblies. Residence within half a mile of the meeting house was the civil qualification for taking part in the management of the affairs of the town. As new settlements grew up the same necessity for combined action produced the same results. The union of towns in time followed; the county and the towns were represented in the general assembly. In Virginia, a very different class of people settled; the population was scattered, because the fertile soil invited the formation of large plantations, and the numerous estuaries and large rivers enabled the merchant vessels of that day to search for a cargo in many directions. The planters soon began to imitate the squires of the English counties, and they naturally adopted the county system as it then existed in England for the management of their local affairs. From Massachusetts, on the one hand, and Virginia on the other, the two systems spread as the country settled. Where these met, systems grew up which possessed some of the features of both. It is stated that to this day the southern part of Illinois has a municipal system resembling that of old Virginia, while in the rest of the state the township system prevails.

Massachusetts still retains her town system in all its pristine vigor outside the large cities. Indeed, special provision for the government of large cities appears to have been made with reluctance. We find, in a work published in 1870, the law regulating the general powers and duties of towns. This enacts that "towns shall continue to be bodies corporate with all the powers heretofore exercised by them," and that "the word town may be construed to include cities and districts, unless such construction would be repugnant to the provisions of any statute specially relating to such cities or districts. The towns have the right to hold property, make by-laws for many purposes, levy taxes, construct

telegraph lines, and perform all the duties usually discharged by municipal councils, including the support of schools, the relief of the poor, the laying out, making and repairing of highways, etc. But they exercise their chief powers in what are called legal (town) meetings held annually or called for a special purpose, which all the electors are expected to attend. Appeal may be made to the superior court by at least ten ratepayers against any by-law authorizing the borrowing of money. All elections are held at town meetings, over which the select men preside. At other town meetings a moderator is elected. At the annual meetings the selectmen, the town clerk, the treasurer, overseers of the poor, surveyors of highways, assessors, school committee, and other officials, are elected by all the male inhabitants of full age who have been residents for a short fixed term. The selectmen—who may be three, five, seven, or nine—besides presiding at the town meetings and calling special meetings, appoint police officers, inspectors of weights, etc., cause sewers and drains to be made and repaired, issue certain licenses, establish fire departments, establish a board of health, if no special provision be made in that respect, regulate street railways, and the inspection and storage of petroleum, and assist in carrying out the militia law. The perambulation of the boundaries of the town is one of their duties. The people prefer to exercise themselves directly all the powers that can be kept in their own hands.

Even in Boston, the town meeting was retained as long as possible. The adoption of the representative system was deferred until government by the old system had become impossible. When government by a mayor and council was adopted it was made exceedingly cumbrous and complex. Boston loved to boast that it was the cleanest and best governed city in America. It was not because the system was good that there was any foundation for that boast. As in nearly all other American cities, Boston had a house of aldermen, and a house of councillors. The charter of the city, as it stood in 1874, provided that "the qualified electors of said city shall at the annual meeting be called upon to give in their votes for twelve persons, being inhabitants of said city, to constitute the Board of Aldermen for the ensuing year." Another section provided that the qualified voters of each ward shall . . . bring in their votes . . . for three men . . . to be members of the common council. "In all their elections the idea of their acting in town meeting is still preserved. The executive powers of the corporation generally, and all the powers formally vested in the select men of the town of Boston, were by the charter of 1854, vested in the board of aldermen. We find it stated in a work published since, that the aldermen were elected for districts. The extent to which the people of Boston and the State Assembly succeeded in imitating the muddle and confusion of British municipal government may be learned from the following statement:

"The mayor, three street commissioners, and twenty-four school committeemen were elected at large, twelve aldermen by districts, seventy-two councilmen by wards. Of the remaining city officers, some were appointed by the mayor, some elected by the city council in convention, some appointed by the mayor and confirmed by the city council, some elected by the concurrent votes of the two branches of city council, some appointed by the mayor and confirmed by the aldermen, and some appointed by the aldermen, and of a total appropriation of \$12,291,000 for city purposes, over four millions was controlled directly or indirectly by committees of the aldermen or of the city council."

The charter of 1854 was frequently amended. In 1870 the law providing for the election of a board of street commissioners by the city at large was passed. The powers of the board of aldermen respecting streets were transferred to it. In 1874 a board of registrars of voters was created. In 1875 a water board was established, and in 1878 the control of the police was transferred from the board of aldermen to a board of three commissioners, appointed by the mayor, with the approval of the council. The State Legislature has since transferred the control of the police to a board of three commissioners, appointed by the Governor-in-Council. In 1884 commissioners were appointed, under order of the Council, to report what changes in the form of government had become necessary by reason of the increase in area and population of the city. The council being unwilling to act on their report, a citizens' committee prepared a scheme of reform, which was adopted by the Legislature without material change. Under this the two branches of the city council are retained, but both are

deprived of all executive power. The mayor is authorized to appoint all city officers, subject to approval by the aldermen, and to remove any of them for sufficient cause, stated in writing. He is authorized also to veto any appropriations or any items in an appropriation. This veto may be nullified by a two-thirds vote of the council. The limit of the city's indebtedness was by the same Act reduced to an amount not exceeding two per cent. on the average valuation of any preceding five years.

The government in other American cities was organised under charters long before any one had ventured to suggest that Boston could not be governed properly by its town meetings and its select men. A charter was given to Philadelphia, by William Penn, in 1691. All early charters necessarily bore a general resemblance to one another, but they differed in several important particulars, and all were many times amended. There is scarcely a single point on which each does not differ from several others. After the close of the civil war an era of large expenditures began, and the value of the different systems, as a means of procuring what was best, to be done at a reasonable cost, was severely tested. Not one withstood that test satisfactorily. In all the cities extravagant and wasteful expenditures led to heavy taxation, and in many corruption was said to be rampant. Many cities found that a thorough change of system was necessary for their protection. It is remarkable that in all the great cities in which such changes have been made they are in the same direction. All agreed that there was so much waste, and that dishonest contractors were allowed so many opportunities of defrauding the public with impunity, because the executive functions of the city government were discharged through committees of the council, and direct immediate personal responsibility either did not exist or was not felt. Within a few years, changes have been made in the charters of New York, Brooklyn, Philadelphia, Boston, Baltimore, St. Louis, Chicago, and other cities, for the express purpose of separating the executive from the legislative work in those cities, and making the powers and duties of the councils merely legislative and supervisory, or inquisitorial. Under this system the councils determine what new works or improvements shall be undertaken, make the necessary appropriations, determine what rates shall be levied, and in the first instance or otherwise, what sums, if any, shall be borrowed. Accounts of all expenditures made are submitted to them for inspection, and in all cases they have the power to call at any time for such statements, explanations or documents, as they think it desirable to have. In some cases their approval of the nominations of officers made by the mayor is necessary, and by a two-thirds vote they may over-rule the veto or the decision of the mayor.

UPPER AND LOWER CANADA.

In 1792, Upper Canada was created a separate Province, and in the same year Lower Canada was divided into 21 counties, which were empowered to send representatives to the Legislative Assembly. But no organization for municipal purposes was created in those counties. In the parishes local works were carried on as before, under the supervision of an officer called the Grand Voyer, and the militia captain continued to be a personage of importance. The Grand Voyer appointed a surveyor of roads, and on the reports made by him decided what should be done. The justices of the peace, in sessions, had a right to adjudicate upon questions that might require their action. Overseers of highways were elected by the people of each parish. The Legislature was really the chief municipal organisation for the Province, and provided the means for the construction of such roads and bridges as were thought necessary, the residents contributing only their statute labor. This state of things continued without much change until 1841. Upper Canada meantime made more progress towards regular self-government, although the affairs of that Province were in a very unsatisfactory condition. The Legislature at first provided for all necessary works, and provided by special Acts for the establishment of markets. In time quarter sessions were established, and some towns were incorporated. When the construction of canals and other works exhausted the Provincial revenues, a system of local assessment for the construction of local works was established, and such machinery

as was absolutely necessary was provided. Lord Durham, in his report, said that the establishment of a good system of municipal institutions throughout Canada was a matter of vital importance. The chief reason he gave for this was that a general legislature which manages the private business of every parish in addition to the common business of the country wields a power which no single body, however popular in its constitution, ought to have—a power which must be destructive of any constitutional balance. The bill for the union of the two Provinces, when introduced in the Imperial Parliament, made provision for the establishment of municipalities, but it was decided that this would more properly be the work of the Canadian Legislature, then to be created. During the suspension of the constitution the special council established a municipal system in Quebec. The Province was divided into 22 municipal districts. In each the number of councillors appointed by the Governor in Council were elected in the parishes by the householders who at the same time elected parish officers. The Warden was appointed by the Governor in Council. The power of the councils was very limited, as instructions to the chairmen of parish meetings, assessors, collectors, and surveyors of highways emanated from the government. This, however, prepared the way for the introduction of a better system. In 1841 the Legislature of the united Provinces passed a measure which, though very imperfect, may be regarded as the basis of the present municipal systems of the two Provinces. By that the appointment of the warden of each county was vested in the Governor in Council.

QUEBEC.

Montreal and Quebec were incorporated by a temporary Act, which the legislature refused to renew when it expired in 1836. They continued without municipal government until Lord Durham's time. He said of them in his report, that "the disgraceful state of their streets and the utter absence of lighting were consequences which arrest the attention of all, and seriously affect the comfort and security of the inhabitants." Attempts were made to remedy this state of things by ordinances passed by the special council. An Act * repealed these, and provided for the incorporation of Montreal and its government by a mayor and council. The English system of having councillors elected by the burgesses, and aldermen, equal in number to a third of the councillors, elected by the councillors, was followed in this measure. The system was changed, and more ample powers were given to the city government by an act † passed in 1874, which the people of Montreal regard as their charter.

This, like all other charters, has been repeatedly amended. In the term for which members of the council are elected, the mode of election, the mode of assessing, levying and collecting taxes, the management of the police, the conditions necessary to give validity to by-laws, and the conditions on which money may be borrowed, the system differs widely from that of Ontario, as will be shown. The amendments which it is now proposed to make in this charter are, that the elections shall be conducted under the ballot system instead of by open voting, as at present; that the property qualification for members of the council be abolished; that the council be divided into aldermen and councillors, the aldermen to be elected by the owners of property, and to constitute the material for the finance committee of the city; that instead of electing one-third of the members of the council each year, as at present, all the members shall be elected once in every two years; that the wards be re-cast, so that there shall be nearly the same population and the same amount of wealth in each, and that better provision be made for the punishment of corrupt practices at elections. One of the earlier Acts required that councillors should be nominated at a meeting of the electors held in the open air. This was a survival of a very ancient custom universal amongst Celtic, German, and Scandinavian peoples.

We applied for copies of the laws which constitute the charter of the city of Quebec, but we have not obtained them. We understand that it does not differ much from that

* 14 Vict. chap.

† 37 Vict. chap.

of Montreal. In both cities the principle of assessment is the same. In both the council have direct control of the police. In both the water works and other improvements were made under the direct management and control of the council. In both the water supply yields a large surplus revenue, and the rate of taxation is less than in Toronto, although the assessed value of real estate is relatively lower.

THE MARITIME PROVINCES.

In the maritime provinces the system of local government first adopted was that in which the county is the unit. The provinces were divided into counties, and these again into parishes. The quarter sessions managed all the affairs of the county, and with what was for many years a solitary exception, the affairs of all towns within the county. The sessions appointed all the more important local officers, except the sheriff and the clerk of the peace, who were appointed by the provincial government. They also provided for the maintenance and repairs of court house and gaol, for the maintenance of prisoners, the expenses of holding courts, and for such relief of the poor as was in any way provided for. The cost of making and maintaining the public roads was for the greater part provided for by the provincial legislatures, the people of the county or parish contributing only the statute labour. Several other matters were entrusted to the sessions, such as the local administration of the laws relating to public health. They granted tavern licenses also, appointed surveyors of lumber, and for years appointed the parish officers, whose duties were not important. In some cases parish officers were elected. The Nova Scotia county system differed in many respects from that of New Brunswick. Some of the higher county officials were in that province selected by the judges of the supreme court from lists submitted to them.

The charter granted to St. John, New Brunswick, in 1785, three years after "the landing of the loyalists" in that place, was the first, we believe, granted in any part of what is now the Dominion. At that time the two small towns lying at the mouth of the St. John river, were united under the name of the city of St. John, and all the ungranted lands within its boundaries were conveyed to the newly created city, with this singular proviso, that the revenues derived from the lands on the west side of the harbour should be used exclusively for the benefit of the people residing on that side. Other lands outside the city line were also granted to the city. The city was to be governed by the mayor, appointed by the Lieutenant-Governor, and six aldermen and six assistant aldermen, elected annually by the freeholders and freemen of the six wards into which the city was divided, the freeholders voting in every ward in which they held property. Aldermen and assistants sat together in council. All the white male inhabitants of full age were made freemen. After the original creation, residents of the city, who were sons of freemen or who had served as apprentices to freemen, could become freemen on paying a small fee and taking a quaint oath of allegiance and of fidelity to the city. Others could purchase the freedom of the city for £5 (\$20) and the fees. None but freemen were allowed to carry on business of any kind in the city without paying an annual business license tax. The Lieut.-Governor appointed also the recorder and common clerk. To make the system more closely resemble that which then existed in England, the fisheries of the harbor, once very valuable, were made the exclusive property of the freemen. As each could not get a fishing station, the valuable stations were divided by lot amongst the freemen at the beginning of each year. The first choice, when it did not fall to the lot of a fisherman, generally sold at from \$400 to \$500, and several others brought good prices. Recent legislation turned the proceeds of the sale of these stations into the general revenue. The mayor, aldermen and commonalty, as they are called in the charter, had authority to appoint all their other officers and fix their salaries, to establish and regulate markets, to levy dues or tolls, and to make, improve, clean and maintain streets and sewers, and possessed all the other powers usually conferred on such bodies. The mayor, of his own authority, granted tavern licenses and licenses to hackney carriage owners and cartmen. The council established and maintained a watch.

Criminal cases were tried, and petty offences directly punished, by the aldermen, who were *ex-officio* magistrates. The city was given also a court for the recovery of small debts, in which the common (city) clerk and one of the aldermen were judges, and a jury of three may be had in certain cases. This court still exists, and its jurisdiction has been enlarged to £20 (\$80). The aldermen at first managed the affairs of the county also, but these were afterwards transferred to a court of Quarter Sessions, composed of the city aldermen, and of magistrates appointed by the crown, and presided over by the mayor, or in his absence by the Recorder of the city. The sessions appointed county officers, as elsewhere, granted tavern licenses, provided for the maintenance of court house and gaol, and of prisoners, and the poor, and levied rates to cover these and all other authorized expenditures. The city, which was represented at the Sessions, paid a full share of the county taxes for all purposes, its proportion being determined by the relative assessed value of property, in the city and in the parishes. A few cases, *quasi* criminal, were tried by the magistrates in session, but after the magistrates sat the Recorder held a court for the city and county, in which criminal and civil cases were disposed of, the jurisdiction being limited. The control of the harbour was given to the council, with power to appoint a harbour master and other officers, to make regulations, impose dues on vessels, and do all that may be necessary for its conservation and improvement. The council also controlled the harbour ferries from which they derive a revenue. Persons owning property on the water's edge could build wharves to the deep water line only on obtaining a lease from the council. The council own much of the property on the harbour, and they have themselves built several large wharves, provided slips for market purposes, etc. The dues and tolls payable at these are usually let at public auction once a year. It has been proposed to place the harbour in commission, but this proposal has not found general acceptance. No by-law passed by the council has force until it has received the approval of the Lieut.-Governor in Council, and the city council cannot effect any loan without express sanction of the Provincial Legislature. The water works, originally owned by a company, were purchased by authority of an Act of the Legislature. They are now managed by three commissioners. Two of these—one of whom is chairman—are appointed by the city council, and one by the council of the adjacent city of Portland. The commissioners are authorized to extend the works, and borrow money on debentures issued by themselves within the limits prescribed by the Acts of the Legislature, and to levy rates sufficient to pay interest and cost of maintenance and of management.

Changes have been made. The mayor is now elected by the whole body of electors. The assistant aldermen became councillors in time. The members of the council are now all aldermen, and number eighteen, the number of wards having increased. An Act of the legislature passed several years ago established a police court and a police force. The government appoint the police magistrate and the chief of police, who appoints and, when he thinks proper, dismisses the members of the police force. The council pay all the salaries and other expenses. The Recorder's court has been superseded by the county court established by a general Act in 1866-7, and the recorder, who is still appointed by the government, is now merely a permanent law adviser of the council and solicitor for the council in their lawsuits. He receives a salary of \$800 and is entitled to taxed costs in all suits. The city chamberlain is now receiver and collector of taxes, as well as treasurer. All who are registered as electors entitled to vote at provincial elections, that is, all who are assessed on real estate to \$100, or on personal estate or income to \$400, are the electors of the city. A small number still vote as freemen. The quaint old-time oath which all who seek to be freemen are still required to take, is as follows :—

“ You do swear that you will be good and true to our Sovereign (Lord King George the Third), Lady the Queen, and to the heirs of our said sovereign lady ; obeisant and obedient shall you be to the mayor and ministers of this city ; the franchises and customs thereof you shall maintain and this city keep harmless in that which in you is ; you shall be contributing to all manner of charges within this city as summons, watches, contributions, taxes, tallages, lot and scot, and all other charges, bearing your part as a freeman ought to do. You shall know of no gatherings, conventicles, or conspiracies made against the (King's) Queen's peace, but you shall inform the Mayor thereof or let it to your power ; all these points and articles you shall well and truly keep according to the laws

and customs of this city. So help, etc." Probably very few of those who now take this oath fully understand its meaning.

We have described the provisions of this charter at such length because we believe there is no other on this continent that in all respects resembles it, and because we believe that it has been the most successful of all the instruments framed for the purpose of adapting the fundamental principles of the municipal institutions then existing in England to the circumstances and conditions of the people of this part of the world.

The cities of Fredericton and Portland and some towns have been incorporated by special Acts of the legislature. County municipalities now discharge the fiscal and other municipal duties formerly discharged by the quarter sessions, and the county courts dispose of indictable criminal offences. An Act was first passed empowering such counties as chose to establish representative municipal government. A few counties adopted that Act. Afterwards all counties were made municipalities by positive enactment. The system is simple. The county is still the unit, and the parish merely a subdivision of the county. Each parish elects at least two councillors; some elect three, and there are other exceptions, as in the case of St. John which, the Act provides, shall have twenty-five members in its county council. Of these the city chooses ten—the mayor and nine of the aldermen; the city of Portland five—the mayor and four members of the council; two parishes elect three each, and of the two others, each elects two. The elections are annual. The councillors elect their wardens and appoint all the county officers except the clerk of the peace, and all the parish officers; provide for the maintenance of the gaol, the court house, the alms house, and public general hospital, to the support of which the province makes a small contribution; provide for the care and maintenance of prisoners and the cost of holding all sittings of the superior and county courts, except what is repaid by the government on account of jury fees; make such regulations and by-laws as such bodies are usually empowered to make for the suppression of nuisances, and the regulation of highways and wharves, and levy such rates as are necessary. The amounts to be contributed by the cities and parishes are determined by the assessed value of the property, and the cities assess and collect their share through their own officers, paying it over, when collected, to the county treasurer. In all French districts the French ratepayers elect their own overseers of the poor, who levy, collect, and disburse what is necessary for the support of the French poor. The duties of the parish officers, except perhaps the assessors, are not important. The councils regulate tavern licenses in all parishes outside of the cities and incorporated towns. In St. John an almshouse and a public general hospital are supported out of the county rates, but are managed by commissioners appointed by the government. The commissioners must submit their accounts to the councils who determine what amount shall be levied for the support of the institutions. Almshouses have been established in other parts of the province, and these are managed by commissioners or by permanent committees of the councils. The members of the councils are elected by resident ratepayers assessed upon real estate of any value or upon personal property or income of \$100.

In Nova Scotia, as we have stated, the county system was the first established. The government, which was largely under the influence of the military and naval authorities, appears to have been afraid that the establishment of municipal government would lead to revolution, because the town meetings of Boston had done so much to promote rebellion and revolution in the United States. Halifax, founded in 1749 by Lord Cornwallis, did not receive a charter until 1841. In 1751 the governor and council, in whom the legislative and administrative powers were then combined, passed an ordinance dividing Halifax and its suburbs into eight wards, and empowering the inhabitants to choose eight town overseers, one town clerk, sixteen constables and eight scavengers for "managing such prudential affairs of the town as shall be committed to their care by the governor and council." A legislature was elected in 1758, and at its first session a joint committee of both houses was appointed to choose four overseers of the poor, two clerks of the market, four surveyors of highways, two fence viewers, and two deputy reeves, for the much favoured town. For many years the legislature controlled directly the local government of all parts of the province.

When immediate legislative control of local affairs ceased and the counties attained

their present number and managed their own affairs, the system in them differed from that of New Brunswick. The government appointed the sheriff, and the custos, as chairman of the sessions, appointed the clerk of the peace; the sessions appointed a county treasurer and assessors; the grand jury of the court of sessions nominated a number of persons as officers for the sub-divisions of the county, which were indifferently called parishes or towns. Out of the list so made up the sessions made the appointments. The grand jury made presentments for such sums as were, in their opinion, required for building or repairing court houses and gaols, and for other county purposes, but if they neglected to make presentment the sessions could amerce the county. The sessions had power to make certain regulations for the good government of the county.

Several years ago an Act was passed authorizing any county that chose to establish municipal government. When the Act was adopted the council elected under it were authorized to adopt a system based upon the township as the unit, and in other respects similar to that then existing in Canada. It was not till 1879 that all the counties were made municipalities by Act of the Legislature. Under this Act the inhabitants of every county and sessional district (the larger counties we presume are divided into such districts) are created a body corporate. The polling districts laid off for the election of members to serve in the general assembly, are made the electoral districts of the municipality. The larger districts named in a schedule elect two councillors each, the others one. The vote is by ballot. The elections are annual. Councillors must be possessed of the same qualifications as members of the House of Assembly are required to have, and the electors the same as the electors of the members of Assembly. The councillors elect the warden. The councils are required to meet twice a year and special meetings may be called. The warden may be paid a salary not to exceed \$50, and the councillors at such rate as the council may determine, not to exceed one dollar a day and travelling expenses at the rate of five cents going and returning per mile. The council appoint a clerk, treasurer, assessors, collectors, auditors and such other officers as may be necessary. The properties previously held by the sessions were transferred to the councils and all the powers possessed and duties discharged by the sessions including that of imposing rates to meet expenditures became theirs. The rates must be apportioned and assessed "equally on all property liable by law to poor and county rate" and all rates and tolls imposed by the council are assessed and recovered in the manner prescribed by the by-laws. Some of their powers are specified in the Act. The warden and councillors are *ex-officio* justices of the peace. The warden possesses the power formerly held by the custos. The council may appoint a board of health, health wardens and inspectors, lay out wards, apportion money granted by the legislature for roads and bridges, enforce the performance of statute labour, make provision for the support of the poor, make orders for carrying into effect the law as it may from time to time exist concerning the manufacture, importation and sale of intoxicating liquors, . . . so far as it may be competent for the legislature of the Province to give such authority, may regulate ferries and public wharves, establish and regulate markets, etc. They are empowered to make by-laws respecting thirty-nine different classes of subjects, such as rural municipalities are usually called upon to deal with. The by-laws to take effect must receive the approval of the Lieut.-Governor in council. No general power to borrow is given but old liabilities are secured. The council appoint also the revisers of the lists of electors for the General Assembly.

At present, the city of Halifax is governed by a mayor elected annually, and eighteen aldermen elected for three years, one-third of the number being elected every year. Every male British subject who has resided in the city for one year and has been assessed therein for poor and city rates, or for poll tax for the support of public schools, and has paid his taxes, is an elector. Non-residents doing business in the city and paying taxes, and members of the city fire brigade exempt from taxes, are also electors. The elections are by ballot. The city council manage the affairs of the city through committees and officers appointed by the council. They appoint also the commissioners who manage the city schools. They have entire control of the city police force whose chief officer is called a marshal. They appoint a recorder who seems to be no more than legal adviser of the council and solicitor for the city. A stipendiary magistrate, appointed by the government and paid by the city, presides in the police office. The city has a

civil court in which suits for less than \$80 may be tried. In this the police magistrate or some other judge presides. The city maintains a prison at Rockhead. A board of commissioners, comprised of one alderman selected by the council from each ward, manage all the work on the streets with the assistance of a city engineer. It requires a two-thirds vote of the council to displace any of those commissioners. Careful provision seems to be made for enforcing sanitary regulations and compelling the owners of buildings to carry them out. A city architect or inspector of buildings is appointed to enforce these regulations; health inspectors direct the cleaning of all streets, passages, wells, vessels and docks; and there is a city medical officer whose duties are multifarious and important. The city purchased the water works some years ago, and commissioners are appointed by the council who, under control of the council, maintain, extend and manage the works, but the council regulate the rates directly. A board of commissioners, of whom eight are appointed by the government and three by the city council, the mayor also being a member, manage the poor house and public hospital. The council levy all the rates required for the city service, including the poor rates. The taxes are assessed by an inspector and a ward assessor, who, sitting as a board, hear appeals. Real and personal property are assessed at what is supposed to be their value. The city treasurer is also receiver and collector of all taxes, including the water rates, and has power to issue distraint warrants. The city council appear to have power to make all by-laws and regulations necessary for the good government of the city. They cannot contract loans without express authority from the legislature, and their by-laws do not go into operation until they have been approved of by the Lieut-Governor in council. Tavern licenses are granted by the council when a majority of the ratepayers in a license district petition in favour of such license and two of the license committee recommend that it shall be granted.

Charters have been given to other towns in the province which are regarded as more nearly approximating to what perfect charters should be than that of Halifax; the experience of that city has been a guide to the others. But though they differ somewhat in construction, there does not appear to be any essential difference in the purpose for which they were framed, or in the means devised for the attainment of that purpose.

Prince Edward Island, granted in fee to a small number of proprietors whose claims to a small rent from the occupiers of the soil were extinguished only a few years ago was laid out in counties, parishes, and townships. The parishes included three to six townships. To Charlottetown and some other town sites were attached tracts of land of some 6,000 acres each called commons or royalties. The parish divisions are now almost forgotten. Charlottetown, the capital, and Summerside have special Acts of incorporation. The establishment of municipal authorities with limited powers in towns and villages was provided for. How far any of the communities of the province availed themselves of these powers we have not learned; the legislature continues to do the work which municipalities should do. It passes Acts respecting the regulating of markets, ferries, roads and bridges, court houses, goals, and fire departments, and for the relief of the poor, and it makes appropriations for the support of schools and for local works of many kinds from the provincial treasury.

ONTARIO.

The Ontariomunicipal system, when compared with those we have thus briefly described, must appear vastly superior to them all in simplicity, symmetry, and sufficiency; yet that it is not without defects, and that something may be learned from a closer comparison with other systems may be admitted.

In this country, as in the United States, the chief difficulty is found in the government of the larger cities. The people of a large city can not be expected to keep a watch on all that is done by the city government. There are too many things to be looked after, the distances are too great and everyone is busy attending to his private affairs. Take, for example, the improvements of the Don in Toronto, which involve an expenditure of some hundreds of thousands of dollars. It is probable that not one in five of the rate-

payers has ever seen that work since it was commenced, and that of those who have seen it not one in twenty has made such an examination as would enable him to form an opinion as to its value or the manner in which it is done. The people of a large city must trust those to whom they confide the government of the city and the control of its affairs, and it is therefore of the utmost importance that they shall be able to choose the most honest, intelligent and capable men that can be found, and that such men when chosen shall find no insuperable obstacles placed in their way by custom, or usages, or system.

While the work of the civic departments is done under the immediate supervision and direction of committees of the council, it cannot be expected that men of large business experience will be found willing to become members of the council. We have not in this country, as they have in England, a large number of men who, having acquired a competency, have much time at their disposal and sufficient strength and energy left to enable them to take an active part in municipal affairs, devoting their time to the benefit of their fellow citizens. The demands of business on the time and attention of even our most successful business men is so great that there are few who must not make a sacrifice in order to devote even part of one or two afternoons or evenings in the week to the general business of the city. To expect that men of that class will undertake the work of canvassing the electors in the manner usually most successful in order to obtain a position requiring so much self-sacrifice, seems absurd. In the cities of the United States, after the great war, the expenditures for improvements, useful or ornamental, became enormous. Extravagance prevailed everywhere, and this led to corruption. Respectable men were excluded from the city councils, the control of which fell into the hands of a few who suddenly became rich. Various changes of the law regulating municipal government were made for the purpose of remedying these evils. Governor Hartranft, of Pennsylvania, in a message to the legislature recommending that a commission be appointed to enquire what should be done, admitted that "honest men can not be made by legislation," but said that "to the power for evil of those who are dishonest and careless a limit can and should be fixed," and that "the principal source of abuse is not in the disposition to do wrong but in the license to speculate and plunder." When the belief that the majority of those who sought election to the council of a city had dishonest motives became general, respectable men shrank from positions which would subject them to such an imputation, and very many would not participate in city government even so far as to vote at city elections. Other means having failed many cities of the union have sought in the absolute separation of legislative and executive functions a remedy for both those evils. They believe that it will prove efficacious.

We, too, hear complaints of extravagance and waste, and sometimes of petty or of gross jobbery. Taxation and expenditure increase enormously, but our system of sewerage remains imperfect, our pavements and sidewalks in a wretched condition, the streets of some of our towns indescribably filthy, our water supply unsatisfactory. Can anything be done to secure a better and more economical administration of the affairs of our cities and towns? Should we adopt the principle found to work so well in several cities of the United States, or any modification of it? If not, what should we do?

CITY GOVERNMENT.

We invited a large number of gentlemen who have had much experience in municipal matters to state their views on this important subject; many accepted the invitation. It might be well to state in brief what their views are and how far they coincide with what other countries have learned from experience.

The Toronto gentlemen who responded to our invitation are nearly all now members of the city council, or they have held seats in that body for some years. They were almost unanimous in their opinion that great changes are necessary, but they differed very widely as to what the changes should be.

Some thought that Toronto can never be governed properly until it has a charter of its own. When asked to explain why they thought this necessary, and why such changes as would fully meet all the requirements of the larger cities of the Province could not be made in the general municipal law, they gave no explanation that seemed to mean more than this—that Toronto should be able to manage all its own affairs without being compelled to apply to the legislature so often for authority. In few if any of the cities that have special charters do the city councils possess greater powers than are now possessed and wielded by the city council of Toronto. Indeed, under the general powers conferred by the Municipal Act, their action is more free than it would be if a charter prescribed expressly what they may do and how it must be done. And cities having charters are frequently compelled to apply to the legislatures for amendments of the charters or for additional powers.

The Electorate.

Several of the Toronto gentlemen thought that the present municipal franchise clauses work satisfactorily; others that it may be well to simplify the franchise, but that it does not matter much whether this is done or not. Some thought that any great reform must begin with the electorate. One said that all the attempts now made in the United States to improve the municipal system by improvements at the top must fail, as, if the foundation were bad, the whole structure must come to ruin. The one improvement he proposed was compulsory voting. He would have a pecuniary penalty imposed on every elector who could vote and who did not, and he would have the amount added to the elector's tax bill. Another would punish the defaulting elector by disfranchising him for a period. An extension of the franchise to all women a gentleman of great experience thought would be the most effectual means of securing good government. Another was opposed to all restrictions and all fancy franchises, and would substitute what is usually called universal suffrage for the present municipal franchise. On the other hand, there were a few who thought that property should be more largely represented and should have more influence in municipal government than it has at present. One gentleman* who has given much attention to the subject, submitted for our consideration facts to show that in Russia and in Spain the electors are divided into three classes. The larger ratepayers who pay one-third of the whole tax form one class; those of the remaining ratepayers who stand next in respect of the amount of their taxes, and who pay another third form a second class; and all the others the third class. Each class has an equal voice in the elections. In Prussia, there are three electoral colleges. He would have some such system adopted here, or failing that he would have the franchise of the English Boards of Health and other boards, which has been adopted in the Australian colonies. All were satisfied with that part of our system which requires that by-laws authorising loans must be sanctioned by the property owners.

The English Municipal Act of 1882 provides that in order to have the right to vote at a borough election a man must be a British subject of full age; must have been one whole year preceding July 15th in occupation, joint or several, of a warehouse, counting house, shop or other building in the borough; must have resided during the whole twelve months in the borough, or within seven miles of it; must have on or before July 20th paid all such rates as have become payable by him in respect of the qualifying property up to the then preceding 5th of January; and must have been enrolled as a burgess. Only those who have received parochial relief, or who are disentitled by Act of Parliament, are excluded.

At the elections of guardians of the poor, and of members of the Local Boards under the Public Health Act of 1875, which now manage the municipal affairs of many hundred urban and rural districts in England, the qualification of electors is, that they be rated as occupiers or proprietors, jointly or severally, of lands, houses, warehouses or shops, and that they have paid the rates. But persons rated at £50 have two votes: those rated at more than £50 and less than £100 have three votes, and so on until the maximum of six votes is reached. If the occupier of a property rated at £250 is also the owner, he

* R. W. Phipps, Esq.

has twelve votes. A similar franchise exists in Ireland for the election of poor law guardians, but there a person rated at £20 has two votes, a person rated at £50 three votes, at £100 four votes, until the maximum six is reached.

In the United States universal suffrage, as it is usually called, prevails generally. The elector must have his name duly registered, and in Massachusetts and some other States all electors who are not over sixty years of age, or physically incapable, are required to read the constitution in the English language. In the towns of Massachusetts every male citizen of 21 years of age and upwards (except paupers and those who cannot read) who has resided within the state one year, and within the city or town in which he claims the right to vote six months next preceding any election of city, town, county, or state officers, or of representatives to Congress, or election of President or Vice-President, and who has paid by himself, his parent, master or guardian, a state or county tax assessed upon him in the state within two years next preceding such election, and every citizen exempted from taxation, but otherwise qualified, have a right to vote in all such elections, and no other person has such right to vote. The qualification of electors in other states, and in most of the cities, resembles this. In the State of New York only taxpayers had the right to vote until 1826. Now the officers of the 120 villages and of some cities are elected by universal suffrage, but the control of the financial affairs rests with the taxpayers alone. Formerly no tax whatever could be imposed without direct consent of the taxpayers. Now the boards of trustees are allowed to raise small sums by tax to meet unavoidable expenses, but the authority to levy a tax for any unusual purpose is restricted to the ratepayers.

In Montreal, the electors are the owners of properties of the assessed value of \$300 or of the assessed yearly value of \$30; residents tenants of dwelling houses or parts of dwellings of the assessed value of \$300 or upwards; tenants, joint or several, of warehouses or counting-houses, of a like value; the husbands of women possessed of real estate of the like value; and widows and spinsters who are owners of real estate to the value of \$300 each.

In St. John, New Brunswick, the qualification is the same as for election of members of the Assembly. The electors must be assessed on \$100 real estate, \$400 personal estate, or \$400 income. A bill to substitute a more reasonable qualification in Provincial elections passed the House of Assembly last year, but was rejected by the Legislative Council. The qualification of electors of New Brunswick county municipalities is the being assessed on real estate of any value, or on personal property or income of \$100.

In Halifax, N. S., every male inhabitant, being a British subject of full age, having resided in the city for one year, and having been assessed therein for poor and city rates, or for poll tax for the support of the public schools for the year ending on the previous 31st day of December, is entitled to vote at the civic elections. So are non-residents who have done business in the city on their own account or as partners in any firm for three years previous to any election. A non-resident votes in the ward in which his place of business is. In the town of Kentville the electors are all ratepayers of the town, male and female, resident or non-resident, assessed on property within the limits of the town. In county municipalities the qualifications are the same as those of the electors of members of the House of Assembly.

The varieties in the qualification of electors in different countries, and even in different parts of the same country, are still very great; but the tendency everywhere is in the direction of a more liberal franchise. It is found from experience that true conservatism is not confined to those who are assessed on property. Still, the feeling prevails widely, that wherever the rights of property are especially involved in any question, and particularly when it is proposed to place permanent encumbrances on property, the express consent of property owners should be necessary, as it now is under the Ontario law.

Qualification of Members of Councils.

The property qualification of members of parliament has been abolished in Great Britain and in Canada, because the law requiring such qualification was constantly evaded, and because so far as it was operative it restricted the rights of the people in the choice

of representatives. The English Municipal Act of 1882 abolished property qualification in boroughs, except in the case of those who do not reside in the borough or within seven miles of it, but who do reside within fifteen miles and who are otherwise qualified to be on the burgess roll. It is required that these, to be eligible candidates for a seat in the council, shall be possessed of real or personal property or both to the value of £1,000 in boroughs of four or more wards, and of £500 in smaller boroughs, or be rated for the relief of the poor in the one case, to the annual value of £30, and in the other to the annual value of £15. Every resident who at the time of the election is qualified to elect to the office of councillor, is also qualified to be elected and to be a councillor. In the many towns and districts in which local boards have been established under the Health Act the property qualification was retained up to a recent period, and it is probably retained still. In all the provinces of the Dominion, as far as we can learn, the property qualification is retained. Practically it seems to matter little whether it is retained or abolished. Montreal, we are informed, intends to ask that it shall be abolished in that city.

Ward Elections.

With two or three exceptions, only, all the Toronto gentlemen who appeared before us were in favour of the abolition of the present system of ward elections. They thought it unfair that wards with a small population and the assessed value of whose property and income is small, should have representation in the council as great as that of the wards whose population and wealth are many times greater. The injurious effects of many undue influences, some said, are greatly increased by the division into small wards. It is almost impossible, they told us, to resist those influences successfully in some of the wards. Extravagance, waste, jobbery, and even corruption, wherever they exist, are due largely to this system. Not only does the desire to grab all that can by any means be got for the smaller wards lead to general recklessness and extravagance, but contractors and others who intend to disregard the obligations they undertake, too often obtain influence enough in some of the wards to enable them to largely control their representatives. To this is attributed in a large degree the immunity which even those convicted of dereliction of duty, or of breach of contract, have in so many cases enjoyed. It was the general opinion also that the abolition of the ward system would do away with the necessity for such a style of canvassing as is now absolutely essential to success in many of the wards, and that it would be one very effectual means of inducing experienced business men to seek, or to accept, seats in the council.

But while nearly all agreed that the present ward system is evil, there was a great diversity of opinion as to the best remedy. Several gentlemen thought it would be best to divide the city into large electoral districts in such a manner that in each the population and wealth would be as nearly as possible equal. A gentleman, who, when a member of the council, advocated a division into nine districts, now thinks it would be better to divide into four, making Yonge and Queen streets the dividing line. In this way, he argued, constant personal canvassing and the other evils of the ward system would be got rid of, the representation of local interests would be sufficiently guarded, and the knowledge which constituencies should have of their representatives would be retained. Another would divide the city into three districts, running the dividing lines in any way best calculated to make the division of population and wealth nearly equal, and to include representatives of all classes and interests in each division. Believing that there must always be a preponderance of wealth in the central district, he would give it proportionately large representation, say an additional member for every two or three million dollars in excess of the average valuation of the other divisions. Only one gentleman proposed to find the remedy for the evils which he, too, admitted, in an increase in the number of electoral divisions. He would divide the city into twenty-four districts by lines drawn from the bay, and each should have but one representative. The majority of those who gave us their opinions thought that the easiest and surest remedy would be the total abolition of electoral divisions and the election of all the members of the council by the citizens at large. This would render the adoption of some system of minority representation necessary, either that of the English school board system, which gives to each elector as

many votes as there are candidates, and allows him to give all his votes to one or to divide them as he pleases, or one similar in principle to that under which elections for the provincial legislature are now conducted in Toronto.

In Great Britain and Ireland the ward system is general in the cities and large towns, and special provision is made for a division into wards in the Public Health Acts, and the other Acts under which local boards, boards of town commissioners, improvement commissioners, etc., are created, but such division is not made compulsory. Provision is made in nearly all cases, in which the ward system is adopted, for a fair representation of population and of property. The English Municipal Corporations Act of 1882, provides that if two-thirds of the council of a borough, not yet divided into wards, petition the Queen for a division, or, in case of boroughs already divided, petition for an alteration of the number and boundaries of the wards, Her Majesty may, by Order in Council fix the number of wards, and the commissioner appointed by the Secretary of State to make such division shall apportion the number of councillors amongst the wards, having, as far as practicable, regard as well to the number of persons rated in the ward as to the aggregate rating of the ward. The Act of 1854, authorizing towns to establish boards of commissioners, provides that in dividing towns into wards "regard shall be had as well to the number of persons rated to the relief of the poor in each ward as to the aggregate amount of the sums at which all the said persons shall be so rated." An Act of 1849 provided that Dublin should be divided anew into fifteen wards, and the commissioner appointed for the purpose was enjoined to have regard as well to the number of persons rated as to the sums at which they were rated. The provisions of the Act of 1882 give reason to conclude that there are still many incorporated boroughs in England which are not divided into wards.

In Boston the charter of 1854 regulated civic affairs until the recent changes were made. The council were by that directed to cause a new division of the city to be made into twenty-four wards in the year 1875, and each tenth year thereafter in which "a census shall be taken by authority of the commonwealth, this division to be made in such a manner as to include an equal number of voters in each ward as nearly as conveniently may be." The council are not enjoined to pay any regard to the value of the property in the wards.

In Boston, the mayor is elected annually by the voters of the whole city. Twelve aldermen, who constitute a distinct body, are also elected annually. The words of the charter of 1854 would seem to indicate that they are elected by the city at large, but we see that aldermanic districts are elsewhere spoken of. Each such district probably comprises two wards. Each of the twenty-four wards elects three councillors annually.

In New York, the aldermen number twenty-two. Sixteen are elected by districts and six by the city at large. It would be at least interesting to know whether any of the aldermen elected by the city at large were implicated in those sales of valuable franchises of which we have heard so much. No elector votes for more than four of the aldermen at large, and in the districts in each of which three aldermen are elected no voter votes for more than two.

In Baltimore, one member from each ward is elected to one branch of the council, and one from every two contiguous wards to the other branch.

In St. Louis, the members of one branch are elected "on a general ticket." One member from each ward is elected to the other branch called, the house of delegates.

In Chicago, the council consists of the mayor and thirty-six aldermen, who are elected by the city at large, we believe, and on the system of minority representation.

We have found that in Toronto the feeling prevails very widely that the abolition of the ward system of elections is absolutely essential to the success of any attempt at reform.

Term of Representation.

We have found also that in the opinion of a large number of those who have had much experience in municipal affairs, the services of active business men in city councils can not be secured if the elections continue to be annual as at present. Months, they say, must elapse before even the most intelligent, energetic business man can learn all

that a member of the council must know about the working of the city government and the affairs of the city in order to be really useful. Before the member elected for the first time has acquired this information, it becomes necessary to devote all the time he has to spare to the preparation for a new election, and at the end of the year he finds himself theoretically responsible for much that, if he had been better informed in time, he would have done all in his power to prevent. The necessity for a long annual canvas in order to make re-election in the slightest degree probable has driven many men from the council whose services would have been extremely valuable.

The English Municipal Act of 1882, enacts that "the term of office of a councillor shall be three years," and that a third of the whole number of councillors shall go out of office in rotation every year. The aldermen, as we have already stated, are elected by the council, their number being one-third of the whole number of councillors, and the term of office of aldermen is six years. On the ordinary day of election of aldermen in every third year one-half of the whole number of aldermen go out of office, and their places are filled by election. Outgoing aldermen are eligible. In Great Britain and Ireland the members of the boards created under the Health Act—local boards, of boards of improvement commissioners, of boards of poor law guardians, and of all municipal bodies, are elected for three years, the mayors, only excepted. A third of the whole number of each board go out of office every year.

In New York the mayor is elected at the general State election to hold office for two years.

In Baltimore the mayor is elected for two years. The members of one branch of the council are elected annually. The second branch is composed of one member for every two contiguous wards, elected biennially.

In Philadelphia the mayor is elected for four years, and is not eligible for re-election. The members of the select council, corresponding with the board of aldermen of other cities, are elected for three years, and one-third go out every year. The members of the common council, as the other branch is called, are elected for two years, and one-half go out every year. One councilman is elected for every 2,000 taxable inhabitants.

In St. Louis the mayor is elected for four years. The members of one branch of the city council is called the council, and its members, thirteen in number, are elected on a general ticket for four years. The members of the other branch, called the house of delegates, are elected, one for each ward, to serve two years.

In Montreal the aldermen are elected for three years, and a third go out every year in rotation. It is now proposed that they shall all be elected every two years.

In Halifax, N. S., the term of office for the aldermen is three years, and a third go out every year. The mayor is elected annually.

In St. John, N. B., the mayor and aldermen are elected annually.

The general feeling appears to be in favour of a term of more than one year for members of municipal councils and boards, the object being apparently to ensure that a large number of the members shall have sufficient experience to conduct municipal affairs prudently, and to induce men to accept seats who are averse to undergoing the turmoil and excitement of annual elections. As there has been no agitation for a shortening of the term in Great Britain, the feeling there must be that councillors and commissioners holding their seats for three years are sufficiently amenable to public opinion. In none of the cities of the United States, in which aldermen or councillors are elected for terms longer than one year, has a reduction of the term as far as we have learned, been proposed as a means of obtaining the reforms which have been found absolutely necessary in several cases to prevent insolvency.

Mode of Election.

The mode of election in Great Britain, as in this country, is now by ballot. The system followed at municipal elections in Ontario is in the main that on which Dominion elections are conducted. It has been suggested that the system on which Ontario Provincial elections are conducted would be much better, as under that such frauds as it is alleged were perpetrated at some important elections could not be successful. It is also

suggested that instead of having the persons to hold the polls in each district nominated by the aldermen, as at present, some responsible official should be made the Returning Officer, with power to appoint all his subordinates. It would not be easy to find an official wholly independent of the council, unless some one unconnected with the council were named. The city clerk would scarcely refuse to appoint the nominees of the aldermen. The English Municipal Act of 1882, enacts that at an election of councillors for a whole borough—that is, a borough not divided into wards—the returning officer shall be the mayor, who is himself elected by the council, and that at an election for a ward the returning officer shall be “an alderman assigned for that purpose by the council at the meeting of the ninth of November,” that is nearly a year previous, the annual elections being held on the first of November. In the Boston charter of 1854 the provision is—and this is probably still in force—that the mayor at some time before the first day of October in each year (the general annual elections being held on the Tuesday after the second Monday of December) shall, with the approval of the board of aldermen, appoint for each voting precinct one warden, one clerk, two inspectors (representing equally the two leading political parties), and deputies of all these, who may take their places if necessary. These hold office for the year, and conduct all elections held during the year for civic, state, or national purposes. It has been suggested that the sheriff would in all probability act more impartially than any officer appointed by the city council, but the appointment of the sheriff for that purpose may be deemed an undue and unnecessary interference with the municipality’s right of self-government.

The Division of Power,

Assuming that the city municipal councils possess sufficient power for all the purposes of good government, or that such additional powers as they may find necessary can easily be obtained, the question arises, “Is that power now so distributed and used as to produce the best possible results, and if it is not, should the legislature use its authority to enforce a better distribution?”

Nearly all the Toronto gentlemen who appeared before us were of opinion that Toronto has greatly outgrown its present system and that a radical change has become necessary. This is probably as true of several other large cities. The civic machinery in all these cities was not constructed at once upon an improved model, but piecemeal, one part after another being added as it was found necessary, the idea prevailing throughout being that the Old Country method of doing everything through a committee of the council must be adhered to. All agreed that the time has come when the mayor should have more power and more responsibility, and when the legislative and executive functions should be separated, wholly as some thought, or to a very great extent, as a few would prefer. As to the best manner of effecting such separation there was, as on other points, a great diversity of opinion.

The mayor is now directed by the Municipal Act to have supervision of all the departments of the civic government, and to see that all perform their duty, but no power is given to him to compel any officer of the city to do what is right or to punish him for doing wrong. He is, in fact, little more than chairman of the council and *ex-officio* member of the committees, and almost the only means he has of giving effect to his views, or of preventing the doing of wrong, is refusing to sign contracts or other documents of whose purport he disapproves. As to the legality of such refusal there has sometimes been much room to doubt.

Nearly all the gentlemen who have had much experience in municipal matters agreed that the mayor should have the power to veto any act or decision of the council, any appropriation and any one or more items in any appropriation, and that a two-thirds vote of all the members of the council—not merely of those present at any meeting—should be necessary to override the mayor’s veto. Some thought that even if the mayor had this power he should continue to preside over the meetings of the council as he may often exercise a salutary influence over its deliberations and do much to guide it to sound conclusions. Others thought it improper that the mayor should have the power to veto the decisions of the body in whose deliberations he had taken part, and that

the American system which makes the mayor a distinct branch of the city government, and allows him to communicate officially with the council only by message, is better calculated to produce good results. In Boston the mayor was, until very recently, chairman of the board of aldermen, but the last reform of the charter removed him from that position. Both branches now elect chairmen who hold that position for the year.

These gentlemen agreed that a reconstruction of the civic departments is necessary. It is obvious that much would be gained by placing the control of all works of construction, the making and repairing of streets, the making and repairing of sewers, the construction of sidewalks, the putting down of water pipes, etc., under the control of one competent person, if only because the repeated breaking up and repairing of streets that now goes on would thus be prevented, and pavements would not be spoiled almost before the work of laying them had been completed. Gas companies, telegraph companies, and all others should be required to obtain permission of the head of this department before opening any street or erecting any posts, and this permission should be applied for at the opening of each season, cases of emergency, of course, excepted. The construction, repairs, and maintenance of all public buildings and other erections should also be assigned to this department. The department should be carefully organized, and a competent man should be placed over each branch of it.

There was some doubt as to the best mode of reorganizing the other departments. All agreed that there must be a city solicitor, or, as some said, a law department, that the assessment system requires revision, that there must be a treasurer and collector or collectors, an auditor or auditors, and a health department; that some one must be made responsible for the proper management of the city property, and that the water works supply service and the fire department should be under efficient control. Of the working of the present system of assessment every one complained. It was suggested that the treasurer may also be the collector of taxes, water rates, rents and other revenue as in Montreal and St. John, N.B., and have, as in the latter city, the power to issue distraint warrants when necessary. If this were not done—and some said that nothing would really be gained by it, while one mode of checking the accounts may be lost by it—it was the general opinion that there should be but one collector of taxes and of all city revenues, who should keep his office open every day in the city building or some other public central place. It may be necessary that he should appoint deputies or others to make demand when taxes, are not paid before the fixed period, and he should be held responsible for money collected by them.

A proper system of audit, which would prevent improper payments, the embezzlement or overholding of money by officials in any department, undue favouritism toward any rent payers or tax payers, all thought absolutely necessary, the failure of the present system having become manifest in many cases of late.

An efficient health department, of which a medical man should be head, or chief assistant, was also felt to be necessary. The present system or joint system does not work as well as might be desired. Whether the ordinary cleaning of the streets should be given to this or to the public works department was matter of some doubt. But all agreed that there should be a thorough cleaning out of all lanes, alleys and yards; that the inspection of water closets and cesspools, should be frequent and thorough; that there should be a vigilant inspection of all buildings, old and new; and that the provincial law, which seems sufficient, should be thoroughly enforced. One medical gentleman stated that the law is now disregarded or evaded to an almost incredible extent, and that the cases in which it is fully carried out are the exception. The inspection of new buildings as a security against fire might possibly be united with sanitary inspection, and thus be made more effectual for both purposes. But a thorough inspection of older buildings is even more necessary.

How should the heads of these departments be appointed, and what should be their tenure of office?

Some preferred the system lately adopted in several large American cities, under which the mayor appoints the head of each department and, on recommendation of the head, all the subordinates, and is himself responsible to the people. But only one thought that it would be well to extend the term of the mayoralty beyond one year, and

several thought that if reappointment every year by every new mayor were necessary, the best men could not be induced to accept positions of trust and responsibility. The heads of departments, these urged, should be appointed for a term of three or five years, or even in some cases, during good behaviour. Others thought that the appointments should be made, as in some American cities, by the council on the nomination of the mayor. Others insisted that the people may and should be trusted to elect the best men for all those positions, and that persons elected to be treasurer, collector, auditor, head of the department of works, etc., would on the average of a number of years be better than those appointed by mayor or council or both, and, at all events, that the elective mode is more consonant with the principle of popular self government. When asked to explain how due subordination and uniformity of action could be maintained if the heads of departments were elected and, as has been said in the report of a New York commission, so many mayors were thus created, the advocates of the elective system said that they would give the mayor and council authority to supervise the work of all the departments, calling for all statements and explanations they thought necessary, and would empower two-thirds of the council, on recommendation of the mayor, to dismiss the elected head of any department or any of his subordinates. One gentleman said he would have the elected heads attend all meetings of the council to answer all questions that might be put, and make any explanations that might be required.

Another gentleman proposed that the present committee system be retained in a modified form, and that at the first meeting of each newly elected council a member of the council should be elected as the chairman of each of the more important committees, that the chairmen so elected should be clothed with large powers in the several departments, and should collectively form the executive council, presided over by the mayor, meeting every day and taking into consideration all matters relating to the city's interests. Thus constantly employed, they should receive a fair salary. A proposal submitted to the council by Alderman Boustead was that at every annual election the ratepayers should select the aldermen who should be chairmen of committees and who should receive salaries.

The prevailing feeling, even amongst those who would retain the old committee system, was, that in a city so large as Toronto, aldermen should not be expected to give all the time that is necessary to the proper supervision of the working of the departments, and that it has become necessary to have one competent head for each who would devote his whole time to it, receiving fair remuneration for his services. The only difference of opinion really was as to the manner in which the persons to do this work should be elected, selected, or appointed.

One of the beneficial results which were expected by every one from the changes he proposed was that the members of the council would be relieved from the work which now requires so much time and attention, and which to men actively employed in business must always be disagreeable. The power of legislative appropriation and general supervision would still remain in the council. All by-laws necessary for the good government of the city would still be passed by them. No work could be undertaken, no tax imposed, no due or toll charged, no money borrowed, and no money expended, unless, perhaps, the interest on the debt, without their express sanction. It might be well to require that ordinarily no work be undertaken unless on recommendation of the proper department, but it was generally agreed that the council should have power by a two-thirds vote to order any work to be done. All appropriations should be made by the council on estimates prepared by the departments and submitted by the mayor, or prepared by a committee of their own body on reports from the heads of departments. All accounts of expenditure should be submitted to them, and they should have the power in every case to require accounts of the progress of any work and of the amount expended to be laid before them. According to all the plans proposed they would always have the right to suspend or remove any civic officer by a two-thirds vote of the whole council.

In Great Britain the council of a city or borough appoint all the civic officers, except two auditors, who are elected, and, in new parliamentary boroughs, the revising assessors. These are elected, not on November 1st when the councillors are elected, but on the first of March, and probably in order to ensure the election of men who are

known to be qualified, the Municipal Councils Act provides that, "an elector shall not vote for more than one person to be an elective auditor or revising assessor." An elective auditor must have the same qualifications as a councillor is required to have. A third auditor is appointed by the mayor. He must be a member of the council, and he is usually called the mayor's auditor. Except in the incorporated boroughs the accounts of all public bodies, such as local boards, and boards of guardians, are now audited by auditors appointed by the local government board.

Few of the suggestions made to your commissioners were to any extent novel. Nearly all the changes proposed had been suggested or tried in those cities of the United States which for some years have sought by changes in their system of government to get rid of the evils that threatened them with ruin. A review of the history of the various experiments tried in those cities would be interesting, but the present state of civic government to which all these experiments led is the proper matter for our consideration.

In New York, although the state legislature interferes unduly in many ways with matters which should be left under the control of the city council, an Act of Assembly passed in 1884, provides that "all appointments to office previously made by the mayor and confirmed by the board of aldermen, shall hereafter be made by the mayor without such confirmation." This restored to the mayor, after a long struggle, the power he held prior to 1872. Governor, now President, Cleveland, when he signed this Bill, filed his reasons. One of these was that "if the chief executive of the city is to be held responsible for its order and good government, he shall not be hampered with any interference with his selection of subordinate administrative officers, nor should he be permitted to find in a divided responsibility an excuse for any neglect of the best interests of the people. The plea should never be heard that a bad nomination had been made, because it was the only one that could receive confirmation." Governor Tilden, a man distinguished for his ability and for the reforms he effected in the state, in vetoing a bill passed to give the power of appointment to the common council said: "Nowhere on this continent is it so essentially a condition of good government as in the city of New York, that the chief executive officer should be clothed with ample powers, have full control over subordinate administrative departments, and be subject to an undivided responsibility to the people and to public opinion." On another occasion he said: "Have no provision in your charter requiring the consent of the common council to the mayor's appointments of heads of departments. That only opens the way for dictation by the councils, or for bargains."

The executive departments are finance, the head of which is the comptroller; law; public works, entrusted to one commissioner; police, public charities and correction; and departments of fire, of health, of public parks, of taxes and assessments, of docks, and of street cleaning. The comptroller, commissioner of works, corporation council, and the president of each department, sit at the board of aldermen, and take part in the discussions but do not vote. The mayor may make removals subject to the approval of the governor. The board of estimate consists of the mayor, comptroller, president of the board of aldermen, and president of the department of taxes and assessments. Heads of departments furnish a statement in detail of what they require. The estimates when prepared are submitted to the board of aldermen, who may suggest changes. If their suggestions are over-ruled by the board of estimates, as they may be, the reasons must be published in the "City Record."

A brief description of the constitution, powers and duties of the principal departments may be useful. The law of 1873, which we believe is still in force, provides that the Finance Department shall have control of the fiscal concerns of the corporation. It shall prescribe the forms of keeping and rendering all city accounts, the manner in which all salaries shall be drawn, and the mode by which all creditors shall be paid. All payments by or on behalf of the corporation shall be made through the proper disbursing officer of the department of finance, on vouchers to be filed in said department by means of warrants drawn on the chamberlain by the comptroller and countersigned by the mayor. The comptroller may require any person presenting for settlement, an account or claim against the corporation, to be sworn before him, touching such amount or claim, and when so sworn to answer orally as to any facts relative to the justness of such account.

"All accounts rendered to or kept in the other departments shall be subject to the inspection and revision of the officer of this department, and subject to the conditions aforesaid; it shall settle and adjust all claims in favor of or against the corporation, and all accounts in which the corporation is concerned." No contract shall be binding, or of any force or effect, unless the comptroller shall endorse thereon his certificate that there remains unexpended of an appropriation made for such service a sum sufficient to pay the estimated expense of executing such contract. The comptroller furnishes to each head of department weekly a statement of the unexpended balance of the appropriation for his department. In this department there are eight bureaus; one for the collection of the revenue accruing from rents, from interest on bonds and mortgages, and from the use and sale of property; another for the collection of taxes; another for the collection of arrears of taxes and water rents; an auditing bureau which, under the supervision of the comptroller, "shall audit, revise and settle all accounts in which the corporation is interested, and shall keep an account of each claim for and against the corporation;" a bureau of markets, whose head is superintendent of markets; a bureau for the reception of all moneys paid into the treasury of the city, and for the payment of money on warrants drawn by the comptroller and countersigned by the mayor; and a bureau for the collection of assessments. The head of this department is the comptroller. He holds office for four years. The chamberlain is required to exhibit his bank book to the comptroller on the first Tuesday of every month, and oftener if required, and when his accounts for the year are closed they are carefully examined by the "commissioners of accounts."

The department of public works is next in importance to the department of finance. The head of this department, who is called the commissioner of public works, holds office for four years. Under the cognizance and control of this department are all structures and property connected with the Croton water supply; the collection of revenues arising from the sale or use of the Croton water; opening, altering, regulating, grading, flagging, curbing, guttering, and lighting streets, roads, places and avenues; repairing and constructing public roads; the care of public buildings; the filling of sunken lots; public sewers and drainage; street vaults and openings in sidewalks; paving, repairing, and repaving streets and keeping them clear of obstructions; the digging and constructing of wells. In this department there are eight bureaus; one has charge of the laying of water pipes, of the construction and repairs of sewers, wells and hydrants, and of paving and repairing streets; another has charge of the collection of revenue derived from the sale and use of water; another has care of all structures connected with the supply and distribution of the Croton water—the head of which must be an engineer of ten years' standing. The other bureaus have charge of grading, flagging, curbing and guttering streets, of lamps and gas, of streets and roads, of repairs and supplies of all public buildings and works; of the removal of incumbrances from streets and sidewalks.

The health department consists of the president of the board of police, the health officer of the port, and two officers called commissioners of health, one of whom has been a practising physician for not less than five years preceding his appointment. The commissioner who is not a physician, is president of the board. The commissioners hold office for six years. There are two bureaus in this department. The head of one called the sanitary superintendent is a physician who has been in practice for at least ten years. The other department keeps a registry of births, marriages, deaths, and inquisitions of coroners. The board make provision for the enforcement of all existing ordinances respecting the health of the city, and make such amendments thereof and additions thereto as they find necessary. Their positive and discretionary powers appear to be ample.

The duties of the department of buildings as prescribed in detail are important. Were they properly performed we should never hear of houses new and old crumbling, of buildings badly lighted, badly ventilated, badly drained, and without sufficient means of egress.

In the city of Brooklyn all appointments are made by the mayor without reference to the council, and those who favour this system say it works admirably.

When the late amendments of the charter of the city of Boston were under consideration it was proposed to make the city council one body, and to give to the mayor

the absolute right of making all appointments. We have stated elsewhere that up to 1885, some of the city officials were elected by the ratepayers, some were appointed by both branches of the council in convention, some on recommendation of the mayor, by one or by both branches, and some by the board of aldermen. It was proposed also that, to serve as a check on the mayor, lest one man, possessing so much power might abuse it, "an executive council, composed of a small number of persons, elected from the citizens at large upon the minority representation plan" should "act upon the mayor's appointments and possess certain executive powers." A compromise was agreed upon. The two branches of the council were retained. The executive powers of the city are vested in the mayor, to be exercised through the several officers and boards of the city in their respective departments, under his general supervision and control. The mayor is authorized to appoint, subject to confirmation of the board of aldermen, all the municipal officers and boards (except the board of police, appointed by the governor, the street commissioners, elected by the people, and the clerks and messengers in attendance upon the city council), and he may remove any of them for such cause as he shall specify in the order for removal. Every ordinance, order, resolution or vote of the city council, and every act of either branch, or of the school committee involving an expenditure of money must be presented to the mayor for his approval, and in the case of orders, involving the expenditure of money, if there are separate items, he may approve of some of them, and disapprove of others. An ordinance disapproved shall not be in force unless reconsidered and approved by a two-thirds vote of the members of the city council present when the vote is taken. The annual estimates of expenditure in the several departments are sent to the mayor for examination, and he is required to submit them, with his recommendation thereon, to the city council. All contracts in which the amount involved exceeds \$1,000 require his written approval. All drafts upon the city treasury, and all certificates of indebtedness require his approval. All conveyances and leases of city land, and all other instruments under seal executed in behalf of the city, must be signed and delivered by him. He is required to call together the heads of departments once a month, or oftener, for consultation and advice upon the affairs of the city. Still, the management of the affairs of the city is more complex and cumbrous than it should be. Three street commissioners, having very large powers, and holding office for three years, are still elected by the city at large—one each year—and the number of appointed officials who appear to be independent of each other is larger than it need be. Here also a number of officials—the sheriff, registrar of deeds, and registrar of probate, are elected by the county electors. The water-works are managed by three commissioners appointed by the mayor and aldermen, one each year for three years. The causes assigned for the changes proposed by a commission appointed in 1884, to examine and report were: "The lack of harmony between the different departments, the frequent and notorious charges of inefficiency and corruption made by members of the (city) government against each other and the alarming increase in the burden of taxation."

The Massachusetts General Act (1882), entitled "Of Cities," provides that "When appointments are to be made by a mayor and aldermen, the mayor shall have the exclusive power of nomination, subject to confirmation or rejection, by the board of aldermen: and if a person so nominated is rejected, the mayor shall make another nomination within a month."

In several cities and towns of New England there is a kind of dual government. The town system, to which, the people were much attached, has not yet given way wholly to the city or borough system. New Haven, a city of 75,000 inhabitants furnishes an example of this state of things. The people still assemble in town meeting and elect selectmen and a swarm of minor officials, numbering some 150 in all. And at another town-meeting they examine the accounts for the year, discuss town affairs, determine what shall be done and what amount shall be raised by taxation for town purposes. The number of citizens who attend those meetings is now small, and only the few who take an interest in town matters or know anything about them take part in the proceedings. The public generally take no interest in what is done at those meetings. The reason given for the maintenance of the town government is that a part of the town lies outside

the city and is not willing to be annexed to it. The city government which grew up beside the town government is peculiar. The people retain all their old intense dislike of centralisation. The mayor has very little power. There are, as in nearly all other cities of the United States, a board of aldermen and a board of councilmen. The twelve wards choose 24 aldermen and 36 councilmen. The presidents of the police, public works, public health and fire commissions are *ex-officio* members of both boards, with every right but that of voting. Each board elects a president. Until 1854 the consent of the people in city meeting assembled was necessary to ratify the actions of the mayor and council, but this it was found impossible to continue. The work of the city is now done almost entirely by commissioners, but the council alone controls the finances and alone can borrow money, alone can order taxation and appropriate the city funds, and legislative enactments limit its power of expenditure. The aldermen alone choose the commissioners of public works, police, and fire. No member of the council except the mayor is permitted to sit on either of these boards. There are six members of each, two of whom are chosen every year to hold office for three years. Each alderman can vote for only one of the two, and thus representation of the minority is assured. No one is allowed to be member of more than one of these commissions. Of the total city income of \$653,465 those commissions expended \$428,385 in 1884. The mayor nominates only the coroner, three commissioners of public health, and two park commissioners, and these nominations must be confirmed by the aldermen, or by both branches of the council. The two branches of the council appoint standing committees upon sewers, streets, squares, appropriations, auditing, building and claims. It is not easy to discover what influence any of them possess except the committee on finance; but as the board of aldermen may remove any of the commissioners by a two-third vote, upon charges made in writing by a member of either branch of the council, they probably exercise some. The officials of the city government number 252, of whom 65 are elected by the people. The elected officials hold office during the term for which they are elected. Nearly all the appointments to important offices are made by the board of aldermen, who thus become the centre of municipal activity, the law making and tax levying power, who dictate not only how much money shall be spent, and how it shall be spent, but who shall spend it. The mayor may preside in the board of aldermen, and there, as in the convention of the common council, he has a casting vote. In other cases he has merely what is called a delaying vote, the majority vote in each board being sufficient to overrule his objections. He is *ex-officio* member and chairman of several boards of commissioners, but on none has he a casting vote. He can make his influence felt, it is said, as chairman of the board of finance, to which are submitted the estimates for the year's services prepared by the heads of the several departments, and all accounts of the departments and officers. The dual system is not economical. The tax for city expenses alone was \$9 a head two years ago, or \$11 on the \$1,000, and this, it is alleged, is probably nearly double the actual tax on the thousand upon a full valuation in either New York or Philadelphia. The ward system of elections was introduced about 34 years ago, and the effect upon the character of the common council has not been satisfactory. "What broad-minded and upright man" asks one writer "will care to sit in the city council knowing that he is expected to secure as large a slice as possible of the public funds for improvements in his locality—jobs which will bring money into his ward and into the pockets of the clique that worked for his nomination? How can any but the small minded man set himself to represent or to uphold the alleged 'interests' of a few square feet of ground".

In Baltimore, the mayor, who is elected for two years, appoints the city officers, "by and with the advice and consent of the two branches of the council in convention." The police of this city are under control of three commissioners elected by the state legislature, and the water supply is managed by a board composed of six citizens and the mayor.

St. Louis has improved greatly within a few years, but this seems to be due chiefly to its having almost on compulsion adopted the local improvement plan for the whole city. In this city the comptroller, auditor, treasurer, register, collector, recorder of deeds, inspector of weights and measures, sheriff, coroner, marshal, public administrator, president of the board of assessors, and president of the board of public improvements are

elected by the city at large for four years. The mayor, whose term is also four years, appoints the other commissioners and other officers subject to confirmation by the council. These appointments he makes in the second year of his term. Any elected officer may be suspended by the mayor, and removed by the council for cause. Any appointed officer may be removed by the mayor or council for cause.

In Chicago the city clerk, city attorney, and city treasurer are elected on a general ticket. Other officers are appointed by the mayor with consent of the council. The commissioner of public works has charge of all public improvements, and appoints and removes with consent of the mayor the heads of all the branches of his department. These are the city engineer, the superintendent of streets, the superintendent of water, the superintendent of sewerage, the superintendent of special assessments, and superintendent of ways. The building department is under the charge of another commissioner who appoints inspectors of buildings. A commissioner of health presides over that department and the city physician acts under his directions. A superintendent of police manages the police force, making appointments with the approval of the mayor, and the fire marshal is head of the fire department, and appoints all the officers and members of the brigade with the consent of the mayor.

The charter of the city of Philadelphia was amended frequently, and some of the methods now suggested in Toronto were tried. In 1876, the governor of the state, by authority of the Act of the legislature, appointed commissioners to devise a plan for the government of cities and they reported a uniform code, but no further action was then taken. In 1882, the city council appointed commissioners to prepare and present an improved method of city government. After seven months careful preparation they reported a scheme which with little change became law in 1885, and in its amended form this is the charter of the city. A memorial from the citizens in support of the bill said: "The affairs of Philadelphia have fallen into a most deplorable condition. The rate of taxation is as heavy as can be borne. The streets of the city are a reproach and a disgrace. Philadelphia is now the worst paved and worst cleaned city in the civilized world. The water supply is bad—during many months distasteful and unwholesome for drinking, and offensive for bathing purposes. Her system of sewerage is bad. The condition of the sewers is dangerous to the health and offensive to the comfort. Public works have been badly done, etc., etc." Could any mere change in the system of government rescue a city from such a condition? The people thought it could, and the main change to be wrought by the measure on which they placed such reliance was the complete separation of the executive from the legislative functions. They resolved to entrust the legislative functions to the council, but to do away with the old committee system, and to entrust to the mayor all executive functions, and hold him responsible for their proper discharge. The departments of the city government were also reconstructed. Some of the amendments made to the bill were important. The absolute right to appoint all the officers was not given to the mayor. The receiver of taxes, the treasurer, and the controller, are elected by the citizens for three years. The director of the department of public safety, (including health, etc.), and the director of the department of public works, are appointed by the mayor with the consent of the select council (board of aldermen), and hold office during the term (four years), for which the mayor is elected. He appoints in the same way the president and directors of the department of charities and correction, who hold office for five years. The mayor has power of supervision over the elected officers. All subordinate officers and clerks are appointed by the directors or chief officers of the departments, and they are protected by stringent civil service regulations. The departments, as reconstructed, are: the department of public safety, the department of public works, the department of receiver of taxes, the department of city treasurer, the department of city controller, the department of law, the department of education, the department of charities and correction, and the sinking fund commission. Under our system education is not under control of the city council, there is no need of a department of charities, and correction is provided for. A sinking fund commission has never been found necessary. There are only seven departments therefore to manage such affairs, and discharge such duties in Philadelphia as are under control of city councils in Ontario. Only three of these require special notice. The department of public

safety, which is under the charge of a director, includes police, health, and the inspection of buildings. The department of public works has charge of water works and gas works, of the repair and lighting of streets, of the construction and maintenance of public buildings, bridges, and other structures, of public squares, of the real estate of the city not used for police or educational works, of surveys, engineering, sewerage, drainage and dredging, of highways, wharves, and docks. A public buildings commission, which had been in existence, was continued, because the buildings begun by it were nearly completed. The department of the city controller is very important. The duties of this office resemble largely those of the Auditor-General of the Dominion and those of the Auditor-General of Ontario. The check upon the Mayor under this system, besides that which a healthy public opinion exercises, is that the council holds the purse strings, and that the mayor and other elective officers, where others are elected, may at any time be impeached for malfeasance on application of ten or twenty ratepayers to the proper court.

The revised charter of the city of Buffalo (of which we have not been able to obtain a full copy) provides that every ordinance and resolution of the common council, except those relating to certain appointments and to the internal affairs of the council, shall be presented to the mayor before it shall be of force. If he approve it, he shall sign it, but if not, he shall return it to the common clerk, with his objections. If the ordinance or resolution required in the first instance a majority vote to pass it, and two-thirds of all the members elected to the common council so resolve, it shall be of force notwithstanding the mayor's veto. If in the first instance it required a two-thirds vote, then three-fourths of all the members of the council must agree to pass it (over the veto) in order to give it force. If any ordinance or resolution is not returned by the mayor within ten days after its presentation to him it shall be of force. The common council, on the first Monday of January, appoints a city clerk, a commissioner of public buildings, a clerk of the markets, sealers of weights and measures, and such other servants as may be necessary. It considers the comptroller's estimates within one week after their presentation, and it may amend the same by a vote of two-thirds of all its members. It fixes the amount to be raised by assessment, orders what streets, alleys, and sewers shall be opened, repaired, and cleaned, and what other works shall be constructed or repaired. It has power to make ordinances of the usual character for the good government of the city, etc. The water commissioners are appointed by the mayor, with the consent of the council.

A pamphlet published by the city clerk of Detroit, in 1884, gives much interesting information respecting the affairs of the city at that time, and the constitution of its government. He states that the population was then 150,000 or more, that it doubled every decade, that the assessed value of the real and personal property was 110 million dollars, that the city taxes amounted to less than one per cent. on that amount—this is much less than the amount collected in Toronto last year—and that the total city debt is less than two per cent. Its schools, he says, are noted for their good work, in morals the city is better far than others of its size, the fire department is hardly second to any in the Union, the police is well managed and effective, the water is of the best, the sewerage, with a fall of over 20 feet, is excellent, the streets are wide and mostly paved, its shade trees are the delight of all who gaze upon them, its residences are unusually fine, and the annual death rate is only about twenty in the thousand. The city is governed by a mayor and a common council, composed of a board of councilmen and board of aldermen. The board of councilmen is composed of twelve members, elected for four years. Three are elected every year on a general ticket by the electors of the whole city. All nominations made by the mayor or any other officer, board or commission, must be confirmed by the board of councilmen. Ordinances or resolutions imposing taxes or authorizing expenditure, may originate in either board, but must be approved by both. The board of aldermen, which seems to correspond with the body called councillors in other cities of the United States, is composed of 26 members, one of whom is elected in each ward of the city for two years. One half retire every year. The members of this board are paid \$3 for each regular session. They can hold but one such session each week. They appoint one or more clerks of the market, weigh masters, wood inspectors, and the gas inspector. All accounts must be sent to this board first, and all contracts must receive its approval before they are sent to the board of

councilmen. But the duties of the city council are chiefly legislative. The water-works are managed by a board of five members, who hold office for five years. One is appointed each year by the board of councilmen, on the nomination of the mayor. The fire department is managed by four commissioners, whose term of office is four years. One commissioner is appointed each year by the board of councilmen, on nomination of the mayor. The board of works, established by special amendment of the charter, consists of three members, appointed by the mayor and confirmed by the board of councilmen. This board have entire control of all works of construction and repair in the city and of the cleaning of the streets. But they have not power to change the plan of any work, and they must report to the council on the progress of all works. All bills for work done under their supervision must be submitted to the council, on whose order all payments are made. Commissioners to take charge of the poor and commissioners to manage the house of correction, are also nominated by the mayor and appointed by the board of councilmen. The board of health consists of three practising physicians, appointed by the board of councilmen, on the nomination of the existing board of health, and the mayor, controller and president of the police commission are *ex officio* members. This board appoint a secretary, who is the chief health officer of the city. The police force of the city is under the control of a board of four commissioners appointed for eight years by the governor, by and with the advice and consent of the senate. By an amendment of the charter passed in 1883, a board of assessors was created, composed of three members, appointed on the nomination of the mayor. They hold office for three years. This board also act as a board of review. The board of aldermen and board of councilmen, in joint session, review the work of the board of assessors. At the same time "the requirement of the raising of a certain sum for the sinking fund was stricken out," and the common council were empowered to require any board, commissioner, or officer of the city to furnish facts and information relative to their conduct of affairs. The city has a revision court, the judge of which is elected for six years. The police justice is also elected at charter elections for four years.

The charter of the city of Waltham is regarded by some as the best in the United States. The mayor and twenty-one aldermen are elected annually on the same day. The mayor is elected by the city at large. Each of seven wards elects three aldermen. To the council so constituted the administration of all the fiscal, prudential, and municipal affairs of the city, and the government thereof, are entrusted. The mayor is the chief executive officer, and he presides at the meetings of the council. He is enjoined to cause the laws and ordinances, to be enforced, and to exercise supervisory and advisory, but not directory power over every department of the city organization. He may suspend any officer, and may suspend any work or payment, whether under contract or otherwise, for a period not exceeding ten days, but in such case he shall report his action and his reasons therefor to the board of aldermen, which shall take immediate action thereon. It is his duty to communicate information to the board of aldermen, and recommend such measures as in his opinion the interests of the city may require. All contracts must be signed by him, and he has control of the police, subject to the ordinances of the city. Every ordinance, order, resolution, or vote of the board of aldermen, except such as relate to the internal affairs of the board, or to the election of officers, which election is vested in the board, is presented to the mayor. If he approves of it, he signs it. If he disapproves of it, he returns it to the board. If, on reconsideration, two-thirds of those present, being at least a majority of the whole board, favour the passage of the ordinance, or resolution, it "shall be in force." If the ordinance or resolution be not returned by the mayor within ten days after it has been presented to him, it "shall be in force." If an ordinance or resolution embraces distinct subjects, or distinct items of appropriation or expenditure, the mayor may approve of the provisions relating to one or more of the subjects or items, and not approve of the others. In such case, he, within ten days, returns a copy of the portion not approved, and that is reconsidered. The mayor and aldermen appoint the police marshal and other officers, but the charter says "In all cases in which appointments are to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, which nomination, however,

shall be subject to confirmation, or rejection by the board of aldermen." The board of aldermen have control of the city property, with power to sell, let or purchase, and have power to establish such offices as may be necessary, to elect all officers required to be elected by the ordinances of the city and such subordinate officers as may be elected by towns," to do what the previous town government were authorized by law to do respecting water supply and other matters, to lay out, alter, discontinue and renew highways, and do all relating to streets, sidewalks and sewers, for which authority is given by the general laws. But all the actual work is done by boards of which no alderman can be a member. The board of aldermen elect by ballot three persons to be assessors of taxes, who hold office for three years, one going out each year. They elect also, three persons to be overseers of the poor; three persons to form a board of street commissioners; three persons to constitute a board of water commissioners; three persons to constitute a board of health; six persons to constitute a board of directors of the public library, and six persons as a board of managers of the public cemeteries. These are elected for three years, and a third of the number in every case go out of office each year. The boards when elected appoint their own secretary, superintendents, and other officers, but these shall not be of their own number, and their compensation is fixed by the board of aldermen. The charter says "the board of aldermen may by its orders and ordinances prescribe the duties of and direct and control the administrative boards and officers in the performance of their duties, but shall not, through its committees, or otherwise than by such formal acts, exercise any authority over the administrative officers." On the other hand it provides "that no money shall be expended, and no liability of the city shall be incurred, by any board or officer of the city except in pursuance of an order of the board of aldermen. The board of aldermen shall appropriate annually the amount necessary to meet the expenditures of the city for the current municipal year; and such appropriations shall not be increased except by a vote of two-thirds of all the members of the board voting by yeas and nays." The board of aldermen are empowered and required to establish a fire department, but it is left to them to determine by ordinance "of what officers and members said department shall consist, prescribe the time and mode of their appointment and removal, define their powers, duties and periods of service, fix their compensations and make such other regulations regarding their conduct and government as the board deem expedient." The charter provides also that the city shall be so divided into seven wards, that "they shall contain as nearly as may be consistent with well defined limits, to each ward an equal number of voters." The chairman of the board of overseers of the poor, the chairman of the board of street commissioners, the chairman of the board of water commissioners, and the member of the school committee appointed for the purpose, are entitled to seats with the board of aldermen, and have the right to discuss all matters relating to their respective departments, but without the right to vote.

The charter of the city of Portland, Me., provides that the city shall be divided into seven wards, which, if necessary, shall be revised and altered every ten years, so as to preserve as nearly as may be an equal number of voters in each. The mayor is "elected by the inhabitants of the city voting in their respective wards". One alderman, three common councilmen, a warden and clerk, and two constables are elected by each ward. All are elected on one ballot. The seven aldermen form one board, the 21 councillors another. The mayor is chairman of the board of aldermen and of all joint meetings of the two boards. Every law, act, ordinance, resolve, or order requiring the consent of both branches of the city council, excepting rules and orders of a parliamentary character, is presented to the mayor for approval. If he does not approve of it he returns it with his objections stated to the branch in which it originated. On reconsideration a two-thirds vote of each branch is required to nullify the veto. In the charter, of which we have a copy, provision was made for the appointment of some officers by the mayor and board of aldermen, to whom were given control of the police and the fire department. Other officers were elected by joint convention of the city council, that is by the two branches acting as one body; others, as has been stated, were elected by the citizens. Probably this, which resembled the Boston system of a few years ago, has been changed. Three assessors were elected by the city at large for three years, one going out each year, and the city council elected an assistant assessor for each ward. Streets were laid out, widened, altered and

repaired, under direction of a joint committee of the two branches: sidewalks and sewers, were constructed, at the expense of the owners of the abutting properties. The care of the harbour was also entrusted to the council.

An Act supplementary to an Act of 1867, passed by the Legislature of Indiana, provides that any city incorporated under the laws of the State, and having a voting population of 15,000 votes or more, shall be governed by a common council and board of aldermen. Every such city shall be divided into wards, containing as nearly as possible an equal number of votes. The number of wards shall not exceed 25 in any case, and the number of electors in any ward shall not be less than 600. Each ward shall elect one member of the council for two years. The city shall be divided by the common council into five aldermanic districts, each formed of an equal number of contiguous wards; and each district shall elect two aldermen to serve for two years. The two branches, in joint convention, elect one set of officers "on the first Friday evening after the first annual meeting of the common council," and another set on the second Monday evening in November.

In the Provinces of the Dominion nearly all the city officials are appointed by the city council, and in no case, we believe, are any elected by the ratepayers. The tenure of office differs at least nominally. In some cases the officials are re-appointed *pro forma* every year. In others they are appointed for a longer term, and it is provided that they shall retain office until their successors have been appointed. In others, no limit to the term of office is fixed, but the Council may remove. In all, the appointments are virtually during good behaviour.

Audit.

The want of a thorough audit is felt throughout our whole municipal system. The reports of Dr. Snelling, Mr. Dymond, Mr. Munro, and Mr. Blakely, commissioners appointed by the Lieutenant-Governor in Council, under authority of the Municipal Act, show that in both the smaller and the larger municipalities there is no effectual audit, that as a natural consequence there are many gross irregularities, and that frauds have sometimes been perpetrated, which have not been discovered for years. In London extensive frauds escaped discovery for a long time. The recent examinations before Judge McDougall showed that large sums received on account of the Toronto water works remained unaccounted for, and later enquiries exposed many blunders and irregularities in some of the accounts. It did not appear that the auditors were so much to blame as the system which made their duties merely perfunctory in most respects. It is clear, however, that under the present system the audit is not a sufficient audit, although the accounts in most cases pass through several hands, and that it does not serve to secure a prompt and full accounting for all public money.

Nearly all whose opinions we received on this subject thought a thorough change in the audit system necessary. They agreed that in large cities the auditor—a few thought it would be better to have two auditors as hitherto—should devote his whole time to this work, that it should be his duty not only to see that accounts correspond with what are usually called vouchers, but also to make so careful and thorough an examination of each item that the concealment of fraud or misappropriation would be impossible. To enable him and his assistants to make such examination it would be necessary to give the auditor or his deputy power to examine the account books and other papers of all the receiving and expending departments at anytime, and to make such other enquiries as he thought necessary. To render the audit a complete protection some thought that there should in all cases be a pre-audit, and that no money should be paid in any case until the account or claim had been passed upon by the auditor.

Many thought, also, that at the commencement of each year the collector, there being but one, should file in the auditor's office one or more statements showing the amount of arrears due for revenue, the name of each person liable being given, and the sums payable by him. This should be countersigned by the treasurer as acknowledgment that it corresponded with a similar statement filed with him. As collections were made and paid over to the treasurer every week, or daily, the collector should send to the auditor a

statement in detail of collections and payments made, and this should bear the treasurer's acknowledgment. At the close of the season, or at any time that it may be called for, the collector should furnish explanations as to the reason why taxes or rents yet due had not been collected. The accounts should also show what amounts were collected each week or day, as tolls, dues, etc. Copies of all by-laws or ordinances authorizing the levying of taxes and the payment or expenditure of money for any purpose, and copies of the assessment rolls, should be filed with the auditor, in order that he may prevent over-payment on any account, and any misappropriation, or any fraud. When payments on account of any contract were ordered he should have power to make such enquiries as would satisfy him that the amounts to be paid bore due proportion to the amount of work done, and in all cases he should have the means of ascertaining whether the accounts presented were for goods actually supplied, work actually done, or services actually rendered. One gentleman, who thought a thorough audit of the greatest importance, did not think that there should be a pre-audit. A thorough examination after the accounts were made up should, he thought, be sufficient.

The auditor should be competent, energetic, and thoroughly honest, and he should be absolutely independent. How could the services of such a man most certainly be secured, and how could his independence be protected? The majority thought that he should be nominated by the mayor and appointed by the council for three or five years, and that he should not be removable unless by a two-thirds vote of the whole council. In that way they thought a competent man would probably be selected. Others thought that the auditor should be elected by the whole body of the ratepayers, for one or three or five years. They contended that none but a competent man could be elected, and that an elected auditor would be thoroughly independent of all the influences which an appointed auditor may find irresistible. Others thought that although it may seem an infringement of municipal independence, the auditor should be appointed by the Lieut-Governor in Council, and hold office during good behaviour.

We have shown that in England the people of the boroughs elect two auditors at an election held especially for that purpose, that each elector can vote only for one of the two auditors, and that the mayor appoints a third auditor who must be a member of the council. We have shown also that in all the municipalities, urban and rural, created under the Public Health Act, and extending over all the rest of England, with powers deemed sufficient for all municipal purposes by hundreds of large towns, the local government board appoint the auditors. Under the Act of 1879, the country is divided into districts for this purpose, and to each an auditor is appointed who audits the accounts of all the rate-levying, money-expending bodies within his district. In Ireland, the auditors appointed by the Irish local government board have examined the accounts of the poor law boards from the beginning, and in 1871 the audit of the accounts of all the cities except Cork, Waterford, and Kilkenny, and of all the towns except those under special Acts, was transferred to these auditors. Nearly all the towns have since adopted the same system, and it now extends to the accounts of counties.

In some of the cities of the United States the auditors are appointed by the councils on the nomination of the mayor, in others by the board of aldermen on nomination of the mayor. In some they are elected. When the great changes were recently wrought in the system of government of Philadelphia, the old system of electing the collector, treasurer and controller was retained. A writer who admires the present system much, thinks that the collector and treasurer should be appointed by the mayor, but that there are many reasons why the controller should be elected. "He is so far as the accounts of the city are concerned the tribunal of last resort. He is to audit and settle the accounts of all the departments, and all the accounts in which the city is concerned. His position is peculiar, and as he acts as a check to all other departments of the city he may justly be considered as being apart and outside the general system of government." This writer states what the duties of the controller are in cities of the first class, as defined carefully in the Act of the Legislature, and says that so much care has been taken to define his duties, because he is the most important and responsible officer in the city government, and each of these provisions has been shewn by the many struggles and hard experiences

of the past to be necessary in order to guard against various abuses in the management of the city finances. One section of the Act provides that whenever a warrant or claim shall be presented to him he shall have power to require evidence that the amount claimed is justly due, and for that purpose may summon before him "any officer, agent, or employe, of any department of the city, or any other person, and examine him upon oath or affirmation relative to such warrant or claim."

In all the cities of the Dominion the city councils still appoint the auditors. We seldom hear of frauds, or misappropriations discovered and reported upon, or of surcharges made in any of those cities.

It is enough to state that the expenditures for all purposes were \$3,702,643 in the city of Toronto alone in 1886, to show how necessary a real audit is. The expenditures were comparatively as large in other cities.

Assessment.

There are numberless modes of municipal assessment, and no one of them, we believe, gives entire satisfaction. There are also marked differences as to the distribution of the burden of taxation.

In Great Britain, municipal and local taxation of all kinds is borne by real estate exclusively, and the burden is often felt to be very heavy. Efforts have frequently been made to transfer a share of the burden to personal property and to incomes, and some of the latest writers urge that this would be only just. But the opinion of nearly all the leading statesmen and public feeling are opposed to such a change. The great landowners are reminded that those from whom their titles are derived obtained the lands on condition of maintaining an armed force sufficient to preserve peace, enforce the laws, and repel invasion, and that the landowners in the reign of Charles the Second, taking advantage of the state of things then existing, got rid by Act of Parliament of such of the feudal obligations as yet remained, giving nothing in return but a tax on the people at large. They are also told, as Mr. Gladstone put it, that if from the personal property and the earnings of the people, contributions be taken towards the support of local services, then land must be made to contribute more directly towards the Imperial expenditure. It is argued too, and this argument appears to have much force, that the tax on real estate is most equitable, as real estate may always be fairly valued, and a tax on it is ultimately borne in fair proportion by all the people. The landowners, however, having had almost absolute control of both Houses of Parliament, have succeeded in transferring a considerable part of the burdens formerly borne by the land to the Imperial treasury. The general government now support all the prisons, and contribute largely to the support of lunatic asylums, of the police and of some great highways. The Treasury subventions for England alone amounted in 1886-7 to £3,610,219, or about \$18,000,000, and this large amount was really a grant in aid or relief of the great landowners.

We were unable to learn enough of the principle on which rates for local purposes are levied in any of the great countries of continental Europe, to make a comparison between theirs and what perhaps may be called the American system.

In the United States and in Canada the laws provide that the burden of taxation shall be borne by real estate, personal estate, and in most cases, income. According to the law of Massachusetts personal estate "for the purposes of taxation, includes goods, chattels, money and effects, wherever they are, ships and vessels, at home and abroad, money at interest and other debts due the person to be taxed more than they are indebted or pay interest for, public stocks and securities, stocks in turnpikes, bridges and moneyed corporations, within or without the State, the income from an annuity and so much of the income from a profession, trade or employment as exceeds the sum of \$600 a year." The assessors are directed to fill up certain blank forms and to place in one column a description of all ratable cash assets, money at interest, etc., and the number of shares of stock which are taxable with the name of the corporation, in any bank, railroad, insurance, manufacturing or other incorporated company. Elsewhere it is enacted that bank and other stocks shall be rated according to their market value.

Of those whose opinions were obtained, all agreed that as the system now personal works, real estate is not fairly assessed, that the amount at which property is assessed is ludicrously low in many places, if not in all, and that the total amount which personal property and income contribute to the expenditure of a city does not compensate for the enormous amount of falsehood and misrepresentation to which the taxation of that description of property gives occasion. The following statements show that in the United States and Canada the valuation of personal property varies so much as almost to prove *prima facie* that this can not be an equitable basis of taxation. There must also be much difference in the mode of valuing real estate. In few places, if in any, is it rated at its fair market value.

	REAL ESTATE.	PERSONAL ESTATE.	INCOME.
Toronto	\$69,469,789	.. \$9,132,821	.. \$4,906,097
Hamilton.....	16,180,200	.. 4,396,570	
London.....	10,566,997	.. 1,741,125	.. 997,470
Kingston (1887).....	5,366,525	.. 1,060,106	.. 465,890
Ottawa "	10,348,000	.. 1,197,000	
Montreal	78,310,281		
St. John, N.B.....	9,084,800	.. 7,691,500	.. 2,702,300
Halifax, N.S.....	15,091,000	.. 4,434,210	

In the Hamilton, and Ottawa statements personal property and income are added together to make the amount given above. Montreal levies no tax on personal property or income, and Halifax no tax on income. It affords strong evidence of the impolicy of the tax on personal property as now levied, that the personal property of St. John, N.B., with a population less than 30,000, should, according to the assessors, be worth almost as much as that of Toronto, with a population nearly five times as large, and that the value of the personal property of Halifax, whose population and wealth are greater, should be rated at less than sixty per cent. of the amount at which the personal property of St. John is rated. The law regulating the assessment in all the cities of Ontario is the same, yet the proportion of the value of personal property to the value of real estate differs widely in them all, being much smaller in Toronto and Ottawa than in any of the other cities.

We have not been able to obtain full statements as to the assessments of any of the cities of the United States, but we find that in New York the assessors' valuation of real estate is but some sixty per cent. of the market value, and that the assessed value of the personal estate, \$197,546,000, is less than one-fifth of the assessed value of the real estate. The proportion is much larger than in Toronto, yet Mayor Hewitt is reported to have recommended in a recent message that the tax should be abolished, because it is found impossible to make it bear fairly.

In Boston, the assessors' valuation of real estate is nearer to its market value and the assessed value of personal property is two-fifths of the whole assessed value of real estate. It may be roughly stated that personal property bears three times as much of the taxation in Boston as it bears in New York.

Some, however, contended that personal property should bear a full share of the general burdens of the municipality, and that means should be devised for an equitable apportionment. These all agreed that although it might have been good policy to make the tax on money invested in banks, loan companies, etc., very light when the ordinary rate of interest on the best securities was from eight to ten or even twelve per cent., there is no longer any good reason why \$10,000 invested in business should be taxed on the full amount, and a like sum invested in a bank or put out on mortgage should pay only on the \$700 or \$800 interest or dividend which it may yield. All personal property they contended should be taxed alike, and if it is thought that the tax should not be as high as on real estate, then there should be a fixed uniform relative rate for personal property of all descriptions. Those

who thought that the tax should be regulated by the benefits received contended that stocks in trade should be assessed to their full average value no deduction being made for any debts due by the nominal owner. Another who thought that a man's contribution to the city's revenue should be regulated by his ability to pay, suggested that business men, like professional men, and others should be taxed on the amount they make each year, and that this could be pretty well ascertained by requiring every one in business to make a statement of his income, and make solemn declaration to the truth of his statement. Any one making a false statement should be subject to heavy penalties. This is the principle of the Quebec general Municipal Act, as it appears in the Consolidated Statutes. That Act provides that "the valutors shall make the valuation of all the real and other assessable property according to its true and real value, and that every merchant, manufacturer, trader, and master artificer . . . shall by reason of such trade, business or calling, be liable to assessment and the value of his business shall be estimated as a distinct property according to the average annual profits thereof, based upon the proceeds of the next two preceding years."

In the cities of Montreal and Quebec, personal property is not taxed nor is income, but a tax is levied upon all hotel or tavern keepers, brewers, distillers, merchants, traders, manufacturers, banks, bankers, brokers, and money lenders, auctioneers, grocers, bakers, butchers; railway, telegraph, telephone, insurance, steamboat, and steamship companies, managers of theatres; and generally on all trades, manufactures, arts, occupations, and professions, such tax not to exceed—in Montreal—seven and a half per cent. on the annual value of the premises in which such parties carry on their business or exercise their trade.

Besides this, fire insurance companies are required to pay a special tax not to exceed \$400 in any case; life and marine insurance companies not to exceed \$200; banks a tax, not to exceed \$400 if the paid up capital do not exceed a million, an additional \$100 if the capital exceed one but do not exceed two millions, and \$600 if the capital exceed two millions; gas companies pay a tax not exceeding \$5,000, but only their immovable property is taxed beside; and telegraph and telephone companies pay a tax not exceeding \$400 each. Special taxes are imposed also on peddlars, carters, owners of horses and vehicles, money lenders, commission merchants, brokers, pawn brokers, inn-keepers, and brewers. With regard to these latter, the law sets no limit to the tax. The owners of real property are liable to such tax as the council may impose, not to exceed one and a quarter per cent. of the assessed value, and tenants of dwelling houses may be assessed on the assessed value of the rents of their houses or tenements. The business tax, as it is called, yielded more in Montreal in proportion to the amount paid by real estate, than the tax on personal property and the taxable income yielded in Toronto. The amount collected in 1886 from personal taxes was \$166,970. This was more than a fifth of the amount paid by the owners of real estate and the occupiers of dwellings, which amounted to \$798,041. In Toronto, the amount assessed on personal property and income was less than a fifth of the amount assessed on real estate.

A few contended that an income derived from a business or profession should pay as much as an income derived from real estate. So far did this idea prevail in St. John, New Brunswick, for many years, that one thousand dollars income paid as much as \$5,000 real or personal property. The injustice of the law forced the assessors to rate incomes at much below what they were, except in the case of those in public employment, the amounts of whose salaries were publicly recorded.

The charter of the city of Halifax states that all household furniture, moneys, goods, chattels, wares and merchandise, ships and vessels, and shares in ships and vessels owned by persons residing in the city, or having a place of business in the city, whether such ships be at home or abroad at the time of assessment, all public stocks except Provincial and city debentures, all stocks in public or private banking companies, water, gas, fire, marine, or life insurance companies or associations, shall be assessed as personal property. In St. John, N.B., the local banks are assessed directly on the full value of their paid up capital, and outside banks having branches in the city are assessed on the amount of capital employed in those branches.

Wherever the local improvement system is adopted for a whole city much of the expenditure hitherto general will be transferred to the properties improved by making, repairing or cleaning sewers, streets, and sidewalks. Still, the amount assessed for the support of the city government, the payment of interest, the maintenance of the police and fire departments, etc., must always be large, and it should be equitably distributed on some well defined principle. The fact that personal property is nowhere rated at even one-half its real value leads inevitably to the conclusion that if assessed at all it should not be expected to pay as much dollar for dollar as real estate should pay.

Complaints as to the manner in which real estate is valued for the purposes of assessment come from all quarters. English writers complain that although efforts have been made to have the valuation for poor law purposes adopted as the basis of several assessments, there are still three distinct valuations, and owners and occupiers pay on three different valuations of their properties. How much better, say these writers, is the state of things in Scotland and in Ireland, where there is only one valuation. But Scotch writers complain that because the assessment boards are composed chiefly of the Commissioners of Supply, who are landed proprietors and who appoint generally the inland revenue officers to make the assessments, and because the court of appeal is composed of landed proprietors, the landlords' mansion houses, policy parks, gardens, pleasure grounds, and plantations are rated much below their value. Much of Scotland is now used as deer ranges and shooting grounds, and these are valued not according to the rents at which many of them are let, but according to the assessed value of the land for agricultural purposes. One forest let for £1,330; another of equal extent and value not let was assessed at only £140. The Griffiths' valuation served some good purposes in Ireland, but it has long ceased to furnish a proper basis for assessment. The valuation in England appears to be better on the whole than in either of the other two countries. Perhaps, the three separate valuations serve as a wholesome check, one upon the other. In 1885 the gross estimated rental of England and Wales was £175,044,207, and the poor law valuation was £147,350,652. In the same year the gross valuation for income tax purposes made by Imperial officials was £159,942,433. These differences are trifling compared to what we are accustomed to on this continent.

If all properties were valued fairly on the same principle it would matter little whether the assessed value were the full value, or seventy-five, or fifty per cent. of the full value. But where personal property and income are also assessed, the under valuation of real estate is calculated to throw an undue share of the burden on personal property, as an under-valuation of personal property and income increases the share of the burden that falls on real estate. For many reasons, it would be much better that real estate should be assessed as the Ontario law provides, at its fair market value. Injustice is seldom done by rating a property at more than its value. It is in almost every case done by the under-valuation of the property of some of the ratepayers of a city, or district. Redress is easily obtained when a property is rated above its market value. But redress is hardly ever obtained for the injustice done to some ratepayers by undervaluing the property of others. Few men care to incur the odium which would fall upon them if they demanded that the rating of their neighbour's property should be increased.

The tendency to low valuation is found everywhere. It spares the assessors and all connected with the business of assessment much trouble, preventing the appeals which would be numerous were an earnest attempt made to rate properties at their real value. Where, as in the case of our townships, several districts are required to contribute to general expenditures according to the assessed value of the property in each, assessors sometimes regard it as a duty to value everything very low and so reduce the amount of the taxation for general purposes, which their district must bear. Where the assessment list is the basis of the electoral franchise, party considerations, it is to be feared, have a disturbing influence on the assessment.

The figures we have given above show how strangely at variance are the conclusions at which assessors in Ontario, employed to carry out the same law, seem to arrive. A comparison with the assessed value of the properties of other cities shows that a really fair and satisfactory assessment is not to be found in either Canada or the United States. The assessed value of real estate in Toronto is low compared with the prices at which

property sells every day. In most cases the price paid exceeds the assessed value by from twenty-five to one hundred per cent., yet the assessed value of the real estate of Montreal, which is a much larger city and more substantially and expensively built, is little more than that of Toronto. We are told that the assessed valuation is in New York about sixty per cent. of the market value, and in Philadelphia about two-thirds of the market value. This must mean that in numberless instances great injustice is done. Chicago still retains the old-fashioned connection with the county in which it is situate, and as a means of escaping payment of more than its share of the county expenditure, it has reduced the assessed value of its real estate, as no doubt the outlying townships did, and now the assessed value is but from a fifth to a third of the market value of the real estate in that city.

The only means by which injustice can be prevented is the strict carrying out of the law as it is, if possible, the relations of real estate, personal estate, and income having been first established on a **just and reasonable** basis if the tax on personalty and income is to be retained. The real difficulty in the way is that of valuation, and all the means yet employed to overcome that have failed. Some now suggest that men, thoroughly competent should be employed every three or five years to value all the property in the cities, as is done in London and other large cities. Some contend that greater security for a fair valuation would be had if these men were appointed by the Provincial Government. Others prefer that they should be elected by the city at large. Assessors were elected in Boston and other American cities. Revisers of assessment, whose duty it seems to be to correct any blunders made by the poor law assessors, are elected in the English boroughs at a special election, and to secure competent men each elector can vote but for one of the two. Means could be taken for including in the assessment buildings erected between each valuation. To this system it is objected on behalf of Toronto that the city is growing so rapidly, and the increase in the value of property is so great every year, that an annual valuation is necessary. How an annual valuation can be made as fair and equitable as it should be is a serious question.

The valuation having been made on the principle of rating each property at its fair market value, there should be a thorough revision of the assessment by men competent to judge of the value of property in every part of the city. It is said that the commissioner of assessment now discharges this duty in Toronto, and the by-laws of the city provide that the assessors appointed by him, on the mayor's nomination or *vice versa*, should with the commissioner form an assessment board for the discharge of some such duty. But as far as we could learn no such board ever makes serious attempt to do that work, and it may be doubted whether the assessors are the proper parties to revise and correct in a body the work done by themselves individually. Two or three competent men acting with the commissioner or independently could revise the whole property assessment in a few days. If this were done, as nearly all the gentlemen whose opinions we obtained agreed, what is now called the revision court, may be abolished. The only appeals now made to that court are made by persons who think that their properties are over-valued, or who, at all events, hope to get the valuation reduced. Appeals to the judge of the County Court would afford ample protection against excessive valuation.

Complaints were made that the law as it now stands unduly favours the speculators who hold lands near cities and towns, for an advance in price, as unless such lands have actually been offered for sale in building lots, or the assessors can say that portions of them will probably be sold for building purposes within a year, they are to be assessed on their value for farming purposes. Many large blocks of land, which have frequently passed from one speculator to another, are thus rated. Such lands, like all other property, should be assessed on their actual market value.

Debt and Taxation.

There has been a great tendency to run into debt in all the municipalities of Great Britain, the United States and Canada for some years past. This has been due in part

to the rapid growth of cities and towns ; partly to the fact that crowded communities have become more alive to the great importance of making sanitary and other improvements ; and partly to the greater facility in raising large loans, and the fall in the rate of interest. Even in old English cities large expenditures were found necessary. In the newer American and Canadian cities it was necessary to construct a proper system of sewers, make and pave streets, lay down sidewalks, and carry out other improvements for one, or two, or five hundred thousand people all within a few years. In the cities of this continent public works of all kinds cost more than in England, because materials and labour are dearer, and because there is a greater tendency to extravagance and jobbery. In England the total of all the debts of the "local authorities" amounted in 1874-5 to £92,820,100, and in 1884-5 to £173,207,968. In the United States, in 1870, the debts of all municipalities amounted to \$515,810,000. and in 1880 to \$821,486,447. We have no means of ascertaining what the total indebtedness of the municipalities of Canada is, but the net debenture debt of Toronto, deducting the amount of the sinking fund, at the close of 1886, was \$7,895,708. This was more than six times the whole amount received from taxes in that year, which, including the school taxes, was \$1,289,395. The debentures sold amounted in that year to \$668,820. The amount paid as interest was \$481,003, nearly two-fifths of the whole amount of taxes collected. Of this, \$33,207 was paid on bank loans.

Hamilton received \$356,256 taxes, including school tax, and paid \$147,246 in interest, besides \$3,021, which went to its sinking fund. Kingston received \$101,804 taxes, and paid about \$22,500 interest on debentures. Ottawa received \$225,461 for all taxes, exclusive of water rate, and paid \$63,417 interest on debentures, and \$10,421 interest on other amounts, and \$62,944 interest on account of water works. The debts of the cities of the other provinces are in some cases even larger in proportion to their revenue. The funded debt of Montreal is \$12,682,400, and the net debt, deducting the amount in sinking fund, is equal to about ten times the amount raised each year by taxation. The assets, however, including water works, markets, fire department, station services, cash on hand, and arrears due for street improvements, are estimated to be worth over sixteen millions. Montreal paid last year \$582,135 as interest, and a large amount to its sinking fund, and its whole income from the tax on real estate was only \$798,041. Halifax owed \$1,702,145, and the total civic assessment, exclusive of water rates, but including school tax, was \$274,104. The amount paid as interest was \$87,900.

The total funded debt of St. John, N.B., (on the east side of the harbour, population say 26,000) was \$1,048,570, for which the city council issued debentures. Besides that a debt of \$1,318,321 was contracted by the commissioners of water supply and sewerage, who themselves issue debentures to cover the cost of all works of construction carried on by them. Debentures for \$239,050 were issued by the school trustees. The total debt, deducting sinking funds, is about two and a half millions.

It appears to be thought desirable everywhere to put a limit to the common law right of municipalities to incur debt. In Great Britain no borough can contract a new debt without the sanction of the treasury board, and none of the other municipalities without the sanction of the local government board, which is not obtained until that body have been satisfied that the proposed expenditure is proper and expedient. In most cases the board send their own inspector to make inquiries on the spot, and they are guided by his report. Then the authority they can give is but provisional. The power to borrow is not complete until authorized by Act of Parliament. This the board promotes.

In the United States, extravagance and waste have created a strong feeling in favour of the "pay as you go rule." There must, however, be many cases in which sound policy demands that extensive improvements should be carried out as soon as possible, and that payment of the cost should be extended over years. In the villages and some of the cities of the state of New York, by-laws respecting money matters can be passed only by the rate-payers. In Pennsylvania the legal limits to municipal indebtedness is seven per cent. of the assessed value of the taxable property. In other states other restrictions are imposed. In Quebec, no by-law can have any affect until approved of by the Lieutenant-Governor in

Council, and there are other restrictions. In New Brunswick and, we believe, in Nova Scotia also, no money can be borrowed without express authority from the legislature.

In Ontario there are two restrictions. The one is that any by-law authorizing an increase of debt must receive the sanction of those who pay taxes on property. The other is that the rate of municipal taxation for all purposes shall not exceed two cents on the dollar of assessed value. This second restriction is of no more value than similar restrictions in the United States have been. As a maximum, two cents is very high, and the power to borrow may be increased almost indefinitely by merely increasing the assessed value of property. That the assent of those who pay taxes on property is required has not proved so useful a restriction as was expected is now generally acknowledged. The safeguard against impolitic or improper action in such matters would be materially strengthened if the assent of at least a majority of all entitled to vote were required. It has been suggested that it would be well also if by-laws authorizing loans could be submitted to the ratepayers only at certain fixed times, and if any by-law that was rejected, could not be submitted for approval again, until at least a year had elapsed. The vote is often very small, even when the ratepayers are asked to consent that very large liabilities shall be incurred. And the more frequently the ratepayers are called upon to vote on such questions, the smaller does the vote become. The necessity for increasing the debt is seldom so great that the delay of a few weeks or months would do much harm, and the time for taking the vote of the ratepayers could be so appointed as to give all property owners a fair opportunity of expressing their opinions.

The constitution of the State of Pennsylvania provides that "the general assembly shall not authorize any county, city, borough, township, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or loan its credit to any corporation, association or individual."

From many parts of this province, a demand now comes that municipalities be deprived of the power to grant sums of money in aid of business undertakings. Formerly many municipalities were induced to vote subsidies to projected railroads. They were frequently misled, and the advantages on the promise of which they voted large amounts some have never been allowed to enjoy. Where they were promised competition and reasonable freight rates they have in many instances combinations and high rates. In such places, especially, the ratepayers find the tax they must pay in liquidating railway debts a heavy burden. Yet it is probable that the people are, on the whole much better off to-day than they would have been if they had never been permitted to promote the construction of railroads by subsidies or by taking stock. At present a mania for promoting the growth and prosperity of towns and villages by subsidising manufacturing enterprises is widespread. The people of some of these places would feel much aggrieved, no doubt, if they were prevented from doing what they believe will enhance the value of their properties and give them greater opportunities of becoming wealthy. It would not put an unreasonable restriction on the right of any community to use its own means in the way that seems to it best, to require that when it is proposed to give a subsidy or loan, or special assistance of any kind, involving the taxation of all residing in the municipality, this should be approved by the votes of three-fifths or of at least a majority of all the ratepayers on property.

As another means of preventing municipalities from becoming heavily involved in debt, the law of Pennsylvania requires that "every contract for public improvements shall be based upon the estimates of the whole cost, furnished by the proper officer, through the department having charge of the improvement, and no bid in excess of such estimate shall be accepted." This though useful is scarcely sufficient to prevent the evils which have arisen from the practice widely prevailing in the cities of the United States, and not unknown in Canadian cities, of accepting tenders for public buildings, and other works, which do not in fact represent one-half or even one-fifth of what all, immediately concerned, know the work will ultimately cost.

The following brief statement, taken from the report of the Bureau of Industries, shows how heavy are the burdens now borne by the people of the principal Canadian

cities, and how important it is that in doing all that is necessary for the health, comfort and convenience of the inhabitants and the accommodation of trade, the strictest economy should be practised :—

	Real property.	Personal property.	Municipal taxes.	School taxes.	Per head of population.	Mills on the dol.
Kingston, 1881,—	\$ 4,419,360	\$ 1,046,517	\$ 72,368	\$ 18,088	\$ 6.34	16.5
" 1885,—	4,905,205	1,473,928	92,816	22,540	7.57	18.1
London, 1881,—	7,896,216	2,298,703	180,450	38,484	10.85	21.5
" 1885,—	9,750,571	2,659,402	225,862	36,930	10.01	21.2
Ottawa, 1881,—	9,485,000	933,000	161,479	37,377	8.02	19.1
" 1885,—	10,348,000	1,197,000	173,175	50,267	6.81	19.4
Hamilton, 1881,—	12,964,280	2,682,200	234,697	53,000	8.00	18.4
" 1885,—	15,264,380	4,182,160	291,698	57,560	8.73	18.0

In the Toronto and Ottawa statements no account is taken of the water rates collected, and probably similar omissions are made in the other statements, as a water rate is in many cases regarded not as a tax, but as a price paid for value received.

In 1873, the population of Hamilton was 30,201, the total assessable property \$12,680,770, and the total taxes \$228,253. In 1887 the population was 41,712, the total assessable property \$20,576,830, and the total taxes were \$386,671.

Toronto has grown more rapidly than any other city of Ontario, but the growth of expenditure has kept pace with the growth of population and of wealth, as the subjoined table, prepared by the city treasurer, shows. The great increase in the assessed value of property since 1885 has caused an apparent reduction in the rate of taxation, but the assessed values are said to be still far below the market values in most cases:—

ASSESSMENT STATISTICS—CITY OF TORONTO—1879 TO 1887.

Year.	Value of Real Property.		Value of Personal Property.		Total Value of Real and Personal Property.		Rate.	Total City and School Tax.		Dog Tax.	Statute Labor Tax.		Arrears of Taxes.		Local Improvement Rates.		Grand Total of City Taxes.	
	\$	c.	\$	c.	\$	c.	Mills.	\$	c.	\$	\$	\$	\$	c.	\$	c.	\$	c.
1879	41,212,757	00	8,544,805		49,757,562	00	17½	870,763	52	3,387	2,362	2,157	71		43,239	13	922,103	46
1880	42,020,155	00	8,146,484		50,166,639	00	17	852,896	78	3,331	2,452	1,731	70		45,311	82	905,723	30
1881	44,151,186	99	9,389,724		53,540,910	99	16½	883,425	03	3,372	1,790	1,274	25		46,255	12	936,116	40
1882	45,973,366	00	9,985,973		55,959,339	00	15½	867,369	75	3,378	1,546	3,161	70		61,216	31	930,955	35
1883	51,271,019	00	10,683,616		61,954,635	00	15½	960,296	84	3,791	1,154	11,572	22		131,381	64	1,091,620	44
1884	54,821,478	00	11,370,833		66,192,311	00	15½	1,025,980	82	4,011	1,382	1,070	76		95,292	75	1,112,208	41
1885	57,424,589	00	11,563,142		68,988,567	00	17	1,172,805	02	4,481	1,098	2,939	56		139,488	45	1,304,717	86
1886	60,472,766	00	11,714,899		72,187,665	00	16½	1,191,096	47	none.	1,228	1,653	98		147,472	46	1,322,648	22
1887	69,469,789	00	13,789,564		83,259,533	00	15½	1,311,337	64	none.	1,298	993	24		170,112	09	1,482,555	68

Toronto, 6th February, 1888.

The total municipal expenditures last year were in Kingston \$203,764, in Hamilton \$819,046, in Ottawa \$618,344, and Toronto \$3,416,543.

The expenditures for municipal purposes are much larger in proportion to size, population, and wealth in the cities of the United States than in the cities of Europe or Canada, and the increase has been very great within a few years. The appropriations to carry on the government in 1884, exclusive of payments on account of interest on debt, State tax, and county tax, were in Boston \$9,909,019, equal to \$27.30 for each inhabitant; in New York \$20,232,786, or \$16.76 per head; in Philadelphia they were \$8,599,196, or \$10.15 per head; and in Cincinnati \$10.63 per head. The taxes in Toronto for all purposes (water rates excluded) were \$10.65 per head in 1885.

[Municipal Properties]

It has been urged that the guardianship and control of all real estate belonging to a city should be invested in the mayor, and that in the disposal of any part of it the initiative should rest with him. But no lease should be made without express consent of the council, and no part of the city property should be alienated conditionally or unconditionally, nor should any lease for a long term, or with covenants for renewal be valid, unless with the express sanction of two-thirds of the council.

Commissions.

In the time of the close corporations the custom arising from necessity grew up of entrusting the construction and management of important works to special trustees or commissioners appointed by authority of a special Act of Parliament. To this day such works as the Liverpool docks are controlled and managed by trustees. The example of England was followed in this, as in other respects in the United States and Canada. There is something to be said in favour of that system, as if competent, respectable, earnest men were selected as commissioners, a work would be carried to completion without those changes which often mar the design and always involve much additional cost when change of control is frequent. But experience seems to have shown that, on the whole, the disadvantages of such a system outweigh its advantages, and that it is wholly unnecessary where the government of the municipality is properly organized. The London Metropolitan Board of Works, we believe, did not require the assistance of special commissioners to carry out the great work of improving and completing the sewerage system of London. The New York council are now carrying on, through the ordinary city departments and officials, the great work for increasing the water supply of that city, and we hear of no charges of jobbery or corruption in connection with it. Since 1875 Boston manages its water works through a board, appointed by the mayor with the approval of the city council. In Pennsylvania the constitution now forbids the general assembly to "delegate to any special commission, private corporation, or association, any power to make, supervise, or interfere with any municipal improvement."

In Montreal and Quebec, the water works and all public services are, we believe, under the immediate control of the city council. In St. John, N.B., the water supply for the city and for the adjacent city of Portland is drawn from the same source and through the same main pipes. This rendered joint control necessary and commissioners were appointed, two by the council of St. John one of whom is chairman, and one for Portland, at first by the sessions, but since Portland was incorporated, by the council of that city. The water works previously owned by a company were, when purchased by the city, transferred to these commissioners who were appointed under a special Act of the legislature and empowered by the same act to extend the works, to issue debentures to a limited extent in order to raise money to pay for extensions and improvements, and to levy, assess, and collect every year such sums as are necessary to pay the interest on the loan and the cost of maintenance and management. They do not require the approval or assent of the council for anything they do, but they must send their accounts to the council at the close of the year. The commissioners of water supply were afterwards made commissioners of sewers, and powers as ample were given to them for that purpose. In Halifax the extension and maintenance of

the water works are given in charge to commissioners who, however, merely carry out the instructions of the council and do not regulate or collect the water rates.

Where the public works department of a city is properly organized, possesses sufficient powers and has a competent man at its head, the appointment of a commission for carrying on any public improvement should be unnecessary.

The Powers of Municipalities.

Those who think that our large cities should have special charters, said that under the general Act a city like Toronto can not possess and exercise all the powers necessary for its good government. But no one seemed prepared to state what powers the city council should have that they do not now possess and wield. Further enquiry may possibly show that an enlargement of the powers of councils in some respects, and a better definition of their powers in other respects would be useful. The municipalities of all classes in Ontario possess more power in some respects than are possessed by the municipalities of the other Provinces, or by the cities that have charters. The approval of the Lieut.-Governor in Council is not necessary to give validity to any by-laws except those of which it may be said that they seem to lessen the security on which the creditors of the municipalities lent them money. The Lieutenant Governor in Council can not in any but the few exceptional cases named in the Municipal Act, interfere in any way with the free action of the municipalities. The provision of the Act which requires that by-laws authorizing loans shall be submitted to the ratepayers, merely means that in such matters the municipality shall act in a special way. It is still the municipality that acts, and its action is perfectly free.

Some representations on this point came to us in writing. One was from a gentleman who thinks that the city councils have not power to compel the extension of lanes from street to street when that may be thought desirable. We have seen no reason to conclude that the city council have not now sufficient power to deal properly with such cases.

Complaint was also made that there is no law for the proper regulation of the means of egress from churches and other buildings used for public meetings, or as places of amusement, or that with the exception of the Special Act which requires that the doors of such buildings open outwards, the law is inoperative in this respect. The Toronto commissioner of streets thought that he could only advise in respect to such matters. Section 20 of the Act passed last session authorizes municipal councils to make by-laws regulating the size and number of doors in churches, theatres, halls, and other buildings used for public worship or public meetings, or as places of amusement, and the street gates leading thereto, also the size and number of doors, halls, stairs, and other means of egress from all hospitals, and other public buildings, and the structure of the stairs, and stair railings, in all such buildings, the strength of the walls, beams, joints, and their supports. This seems to give municipalities the power to prevent or remove all cause of complaint except as to the internal arrangements of such buildings. These it has been represented to us are in some cases such as to render egress difficult when the buildings are crowded.

Another wrote asking that the law be so amended that the council or, in Toronto, the police commissioners, should have power to refuse to license a livery stable if it were to be established or continued in a place that the council or the commissioners might object to. This is one of those matters affecting the rights of property with which the Legislature always deals very cautiously.

The law of Massachusetts, relating to Municipal Government, enacts that :—

“Whoever occupies or uses a building in any maritime place for a livery stable, except in such part thereof as the mayor and aldermen or select men shall direct, shall forfeit a sum not exceeding fifty dollars for every month he so occupies or uses such building, and in like proportion for a longer or shorter time.

“Whoever erects, occupies or uses a building for a stable for more than four horses in any city or town, except in such part thereof as the mayor or aldermen or select men direct, shall forfeit a sum not exceeding fifty dollars for every month he so occupies or

uses such building, and in like proportion for a longer or shorter time ; and the Supreme Judicial Court or any one of the justices thereof, either in term time or vacation, may issue an injunction to prevent such erection, occupancy or use without such direction."

COUNTIES, TOWNSHIPS, TOWNS, AND VILLAGES.

County Government.

We have not been able to make such careful enquiry into the working of our Municipal system in counties, townships, towns separate from counties and villages, as would enable us to say with certainty what are generally regarded as the defects of the system in their regard. We found, however, in the course of our enquiries, that there is a very urgent demand for amendment in some important particulars.

Several counties, it is alleged, if not all, have outgrown that part of the system by which county councils are constituted. The councils have in many cases become almost as large as a Provincial Legislature—much larger indeed than any of the legislatures of the Maritime Provinces—and the increase in the number of members, while it adds greatly to the cost, serves in many cases rather to obstruct and prevent, than to promote the satisfactory discharge of the duties of the council. These duties, which are not many or onerous, could in most cases be efficiently discharged by a few intelligent men in a few days. The amount of money to be provided and disposed of seems to be large—in some cases exceeding \$150,000, but the councils really control only a comparatively small amount in any county. With regard to the expenditure for schools, for the support of gaols and court houses, and the interest payable on debentures, their duty is little more than to ascertain the amounts and make the necessary formal orders. In Simcoe, for instance, the county council now numbers 57. If Muskoka be detached the number will be reduced by eight; but three other members will probably be added this year or next by the operation of the present law. The county revenue is nominally \$42,000, but the amount actually to be disposed of by the council last year was only \$14,000, and the pay of members (\$3 a day and travelling expenses, ten cents per mile) salaries, etc., absorbed \$6,000 of that amount, so that it cost \$6,000 in this case to expend \$8,000 for the good of the county. This council met three times during the year and their sessions lasted in all 17 days. They passed "a self-denying ordinance" some time ago, providing that the members should not be paid for more than eight days of any one session no matter how long it may last. Probably the cost bears as large a proportion to the work done in several other counties.

All of whom we had opportunity to make enquiries agreed that the business of the counties would be better done—as well as more economically—if the number of members of the county councils were greatly reduced, but there was much difference of opinion as to the manner in which this should be done. Some thought it would be well if the county councils were abolished altogether, but they did not and apparently could not suggest any means by which the business those councils now do could be done immediately by the minor municipalities. The majority thought that the councils must be retained, but that the membership should be lessened.

In the legislative session of 1884 a select committee was appointed to consider this matter. They sent out a number of questions during the recess to the clerks of counties, townships, towns, and incorporated villages, and the replies they received were tabulated. Four hundred and seventy-nine stated that the feeling in their municipalities was in favour of reduction, 140 that the feeling was opposed to reduction, 4 that the feeling was in favour of abolition, and 99 that there was no agitation on this subject. Three were divided, three indifferent, and two actually favoured an increase.

Of those written to, 523 said that they were themselves in favour of reduction, 180 that they were opposed to reduction; six were in favour of reduction in large counties, and twenty in favour of abolition; 414 thought that legislation on this point should be compulsory, 171 that it should be permissive, and two that it should be permissive for a time.

Of those who were in favour of reduction, forty-four were reeves, deputy-reeves, mayors, and councillors at the time, eighty were ex-reeves, etc., nineteen were ex-wardens, and 127 were clerks of townships, towns, or villages. Of those opposed to reduction sixteen were reeves, mayors, etc., ten were ex-reeves, etc., four were ex-wardens, and twenty-nine were clerks of townships, towns, or villages.

Five county councils were in favor of reduction, and eight were opposed to it. Fifty councils of townships favoured reduction, and nineteen were opposed to it; twelve division granges were in favour of reduction, and one opposed to it. Of the members of the press forty-four favoured reduction, and seven were opposed to it. Ten reeves, mayors, etc., seventeen ex-reeves, etc., eight ex-wardens, and twenty clerks of townships, &c., wrote that there was no agitation on the subject.

Asked to state how they thought a reduction should be made, if made it must be:—

261 were in favour of doing away with deputy-reeves, and thought that each municipality should have but one member.

134 would reduce the number by "increasing the number of qualified votes required for deputy-reeves, say from 500 to a greater number."

79 were in favour of "dividing the county into districts and electing representatives therefrom."

229 were in favour of having only the reeve sent to represent a municipality, and of giving him as many votes as it is now entitled to.

95 were in favour of having county affairs managed by a board of say five elected by the popular vote, or by the township councils in such manner as representatives at the Board of Agriculture and Arts are now elected by the Electoral District Agricultural Societies.

67 would have the county councils constituted as at present, but would have them at their first meeting appoint small executive committees to transact the business of the year.

The committee after fully considering all these replies, found it impossible to arrive at any conclusion or to recommend any course of action to the Assembly.

A division of each county into a few electoral districts, (each of which should elect one representative) or the election of a small number of county councillors by the county at large, would seem to be the simplest means of relieving such counties as chose to adopt it, from the large and unnecessary expense which the great growth of the county councils now imposes upon them. The only objections made to either of these proposals were that it is undesirable to increase the number of elections, already quite large enough, and that to many of those ambitious of serving their counties in the councils, reduction would be distasteful. A gentleman of great experience thinks that the easiest and most satisfactory solution of the difficulty is to enact that the reeve shall be the only representative from each minor municipality, and that he shall have as many votes as the municipality has representatives under the present system.

The county systems of England, Scotland, and Ireland, which we have briefly described elsewhere, afford no precedent for our guidance in the settlement of this difficulty, as none of the county authorities in those countries are elective, and none are paid directly for their services. In France those members of the municipal councils who are supposed to represent the people, are elected directly by the people in the larger as in the smaller municipalities. The municipal system of the Maritime Provinces differs essentially from ours. They have no parish or township councils and the only municipal councils, besides those of the few incorporated cities and towns, are the county councils composed of representatives elected by each parish, the number in each case being fixed by the Act of the Legislature. The township municipal system in all the States which followed the New England pattern in framing their local government, somewhat resembles our own, but the township municipalities possess somewhat larger powers and more is done directly by the people in town meetings assembled. The county system of Massachusetts and of all the States which have borrowed their municipal institutions from it, differs widely from ours. It may be well to describe at some length what that system is, as it appears in the Revised Statutes of Massachusetts (1882).

In the State of Massachusetts district attorneys, clerks of the courts, registrars of

probate and insolvency, sheriffs, commissioners of insolvency, county commissioners, special commissioners, county treasurers, and registrars of deeds are elected by ballot.

The Statute provides that the voters of each county of the State, except Suffolk and Nantucket, the circumstances of which are exceptional, "shall annually elect one county commissioner who shall hold his office for three years, and until his successor is elected and qualified. There shall be three county commissioners in each county, except Suffolk and Nantucket." The Statute further provides that each county shall every third year elect two special commissioners who shall hold office for three years. Not more than one of the county commissioners and special commissioners in each county shall be chosen from the same city or town (ship). When one of the county commissioners is for any reason unable to take his seat at the meeting of the board of commissioners, one of the special commissioners is called upon to take his place. The remuneration for the services rendered, fixed by Statute, varies in the different counties, being as low as \$400 in Dukes, and amounting to \$3,600 in Middlesex. The special commissioners are paid \$3 a day and ten cents per mile travel, each way, when they serve. The remainder of the total allowance is divided amongst the county commissioners in proportion to the services rendered, the travel performed, and the expenses incurred. They are required to hold one meeting each year at the place and time fixed by the Statute, but they may hold an adjourned term or meeting at another shire town in the same county.

The county commissioners have authority to provide for erecting and repairing court-houses, gaols and other necessary public buildings, within and for the use of their county; to represent their county and to have the care of its property and the management of its business and concerns in all cases which are not otherwise specially provided for; to establish a seal for their county, and to do such other acts as may be necessary to carry into effect the powers given them by law. What these powers are we nowhere find stated in full. All contracts for public works made by them, if exceeding \$300, must be in writing. They furnish blank forms and envelopes for return of voters to the clerks of cities and towns in the county. No payments except of costs in criminal prosecutions, expenses of the courts, and the compensation or salaries of county officers established by law, payments in liquidation of outstanding notes or bonds and payment of interest on such notes or bonds, are made except upon orders drawn by the county commissioners, a record of which is kept by their clerk. They examine and allow the annual accounts of the county treasurer, and allow and settle all accounts of the receipts and expenditures of the county, but this is not the only audit: on the last day of each year they prepare and make up the estimates of taxes for all county charges and debts for the ensuing year, including the building and repairing of court-houses, gaols, houses of correction and other county buildings. The estimates so made up are recorded, and a fair copy, with a statement of the debts of the county, the amount of unpaid taxes, together with the treasurer's accounts are sent under seal to the office of the secretary of the commonwealth to be laid before the General Court (the Legislature) for examination and allowance. The county commissioners apportion all county taxes according to the then last state valuation, and by their clerk certify to the assessors of the several cities and towns their respective portion thereof, and also fix the time for the payment of the same; but no new assessment can be made on the towns of a county until the treasurer's accounts for the preceding year have been laid before the general court and allowed. The commissioners are required to publish an abstract of their account of receipts and expenditures every year in one or more newspapers of the county, and a statement of the debts of the county, the purposes for which they were contracted, and when they become due. They are also required to make a particular statement of all receipts and expenditures except the costs of criminal prosecutions and expenses of courts which may be general, and when the Board of Examiners have certified that this is correct, to have it published in a form suitable for distribution, and in sufficient number to furnish a copy for every 300 inhabitants.

Another statute provides that when a new highway from town to town, or from place to place within the same town, is wanted, or when a highway can with greater public convenience be altered or discontinued, application therefor shall be made by petition in writing to the County Commissioners, who shall cause a copy to be served upon the clerk

of every town interested, and cause copies or abstracts to be posted in public places. They shall view the premises when they deem it expedient or when requested by any party interested ; shall hear the parties, thirty days from the service of the notice having elapsed, and adjudicate upon the common convenience and necessity of laying out, altering or discontinuing such highway. If they decide that the highway shall be laid out, altered or discontinued, they shall as soon as may be proceed to lay out, alter or discontinue the same, first giving such notice as the law requires. They may make such changes between the termini as in their opinion the public convenience requires, or they may order specific repairs if the necessity for the greater work can thus be superseded. They shall determine and specify the manner in which the work shall be done, and the time within which it shall be completed. It is the duty of the town or towns in which a road thus established, located anew, or altered, is situate to make the road or do the other work necessary. If they refuse or neglect, or the work is not done in the manner and within the time prescribed, the commissioners may cause the work to be done, and direct the cost to be paid out of the county treasury, and notice to be given to each delinquent town of the proportion it is expected to pay. If this be not paid at the time named, the commissioners may issue a warrant against the town for the amount, with interest and costs. The commissioners may, when a highway has been built or altered to their satisfaction, order that the whole or part of the expenses incurred by any town in doing the work shall be paid out of the county treasury. When the commissioners require a culvert, cattle pass, or other passage way, through or under a highway to be made and worked they may order the town to construct the same as part of the highway and may "reimburse to the said town" out of the county treasury, such portion of the cost, if any, as justice and equity may in their judgment require.

The select men, or road commissioners, of the several towns may lay out or alter townways for the use of the towns, and private ways for the use of one or more of the inhabitants thereof, or may order special repairs to be made upon such ways. But if they unreasonably refuse or neglect to do so when requested in writing by one or more of the inhabitants, the county commissioners, on petition of the persons aggrieved, presented at a regular meeting within one year, may cause such way to be laid out or altered, charging all expenses to the town, or partly to the town and partly to the individuals who are interested, as seems just. If the town way or private way be not made and completed in the manner prescribed within six months from the time the commissioners give their decision, the commissioners may themselves cause the work to be done and recover the cost from the town. When a town-way has been laid out or altered by the county commissioners it shall not within two years thereafter be discontinued or altered by the town, and a way discontinued by the commissioners shall not be laid out again by the town within two years. The commissioners may award damages for land or other property taken in all cases in which they have established or altered a highway, and if the owners are not satisfied with the amount, they may have the damages assessed by a jury summoned by the sheriff.

Another statute provides that highways, townways, streets, causeways, and bridges shall be kept in repair at the expense of the town, city, or place in which they are situated when other provision is not made therefor. But when two or more towns are required by law to maintain a bridge or keep it in repair, and they differ as to the mode or time of doing the same, the county commissioners having jurisdiction in either of the towns may, on application, and after a hearing of all interested, pass such order concerning the maintenance and repairs, as in their opinion the public good requires, and such order shall be final and may be enforced by the commissioners.

The statute relating to the government of towns (townships) provides that if a town chooses neither selectmen nor assessors, (or if the persons chosen do not accept the trust, or having accepted it do not perform the duties,) the county commissioners may appoint three or more suitable persons within the county to be assessors of taxes for such town, and may impose a penalty upon the town.

The Act relating to assessment provides that "if the assessors refuse to make abatement to a person, he may make complaint to the county commissioners, and if, upon

hearing, it appears that the complainant is over-rated, the commissioners shall make such abatement as they deem reasonable.

Any town, city, person or corporation owning low lands, lakes, swamps, quarries, or mines, which cannot be approached, drained, worked or used without crossing the lands of others or a public highway, may be authorized to establish roads, ditches, drains, tunnels and railways to such places if the commissioners, after hearing all parties interested, determine that such improvement is necessary. Any party feeling aggrieved may appeal.

The General Railway Act provides that "no railway corporation shall take, by purchase or otherwise, or enter upon or use, except for making surveys, any land or other property for the construction of its road, or any branch thereof, until the county commissioners . . . have determined the manner in which the railroad shall cross the highways and other ways within such county, nor until it has obtained from the board a written statement that public necessity requires the crossing at the same level." The commissioners may, on complaint of an owner of land through which a road passes, change its location so as to lessen the damage done. When two or more railroads whose tracks cross wish to separate the grades, the consent of the commissioners must be obtained. The commissioners may permit a railroad company to raise or lower a highway. The commissioners settle disputes between railway companies and owners of lands which would be divided by a proposed line of road, or a part of which would be shut off from a public highway. The commissioners may order railway companies to erect and maintain proper signboards wherever a railroad crosses a highway.

If the board of health of any city or town neglect or refuse to make the proper order for abating a nuisance, any person aggrieved may appeal to the commissioners.

When any person has suffered damages by reason of the construction of an aqueduct, the commissioners may assess the damages and issue warrants of distress to compel payment.

If gates, rails, bars, or fences have been erected on any highway, unless it be for necessary repairs or for the protection of health, the commissioners may order them to be removed.

The commissioners can authorize the employment of additional clerks of the courts, and determine what their remuneration shall be. They supervise the awards of damages for the killing of sheep by dogs, and order payment for such amount as they think just. They assess damages done by the coast survey. They may lease "great ponds" for the cultivation of useful fishes, fix the limits of such ponds, determining what arms, coves or bays shall be considered part of them, and may themselves manage any not exceeding six in number that have not been leased. No reservoir or mill dam shall be constructed until the plans have been approved of by the commissioners, and when it has been represented that there is reason to fear that a dam may break and cause destruction or injury, the commissioners, having examined it, may, if they think proper, order, on advice of an engineer, such alterations or repairs as they think are required to make the structure permanent and secure.

Other statutes provide that the commissioners shall manage the house of correction, and that they may contract for work to be done in the house with any person disposed to supply materials there to be wrought, or that they may let out any of the convicts to hire during the day time; that the commissioners shall be inspectors of prisons in their counties, and shall twice in each year visit and inspect all the prisons; that they may provide a house of reformation for juvenile offenders, and make regulations for their government, and for the appointment of officers; that they shall provide, as part of the house of correction, a receptacle for insane persons not furiously mad; that they shall provide fireproof rooms and safes, for county records; that they shall provide for the keeping and preservation of county maps; that they may cause copies to be made of the records of the county; that they may take land for burial grounds and assess the damages; that they may license persons to keep ferries and may establish the fares and tolls, etc., etc.

The county commissioners may dispose of property belonging to the county, may renew the whole or part of the debts of the county, may negotiate loans in anti-

pation of the annual tax, and may contract new debts not exceeding, in any one year or for any one object, \$30 for each 1,000 inhabitants of the county.

For work done at the instance of private parties and in their interest, the commissioners are entitled to special remuneration according to a scale provided in one of the statutes.

These county commissioners do not appear to have such power to make by-laws for the government of the county as our county councils have. Our system is preferable in this respect; but the duties of the commissioners defined by statute are very extensive and important.

Audit.

All whom we were able to consult agreed that an efficient audit is absolutely necessary. In the great majority of the municipalities, in nearly all of them, as far as we could learn, the audit as at present conducted, is a mere sham, and serves much more to cover up irregularities than to expose and correct them. It is said, and we believe with truth, that the cases of fraud are few, but this is due to the honesty of the officials and not in any degree to the audit, which in many cases amounts to nothing more than a hurried comparison of the entries submitted by the official with what are produced as vouchers. What is now called an audit is really no check on collector, treasurer, or any one else who handles the public money. The inefficiency and worse than uselessness of the present system of audit is shown by the reports of the commissioners appointed under the Municipal Act at various times to make enquiry in particular cases. The report of A. H. Dymond, Esq., shows that in the town of Cornwall a treasurer was appointed without salary on the distinct understanding that the use of the money of the town which came into his hands should be the remuneration for his services. He generally had a considerable amount at his disposal, and the mayor borrowed freely and largely from him. The town sometimes paid interest on loans obtained from the bank, while large sums belonging to it were held by members of the council. The whole business of the town was carried on in the most irregular manner, and the audit was not the slightest check on the most improper transactions. One of the auditors for 1876 said at the enquiry "I never read the Act relating to an auditor's duties." An auditor of 1877 said, "I never referred to the Act of Parliament specifying the duties of auditors." Mr. Copeland, another auditor, said, "We believed we made a thorough examination of the affairs of the corporation. . . We did not examine the treasurer's cash balances. We saw no bank pass book. We knew by the ledger that there was an account between the corporation and the bank for loans. We knew of no account between the treasurer and the bank (although the treasurer had such an account). We would not be aware, from our examination, if the treasurer was strict in his balances. . . . We did not visit the bank to ascertain if the treasurer's account of loans was correct. We did not ascertain the authority on which the several loans had been raised. The accounts handed over to us show an apparent balance due to the treasurer of \$2,616. We did not test the accuracy of this." If they had, Mr. Dymond says, they would have found it a fraud. The auditors of the previous year had allowed an account to go forth to the world from which the record of discounts for longer or shorter terms aggregating \$1,600 was missing. Into the wherefore of a charge of \$412 for interest on purchase of engine and hose account they made no enquiry. A payment of \$1,500, on January 30th, to the High School treasurer, they accepted as right, although the order for it did not issue until March 2nd. Another auditor said, "We did not go to the bank," and the consequence was that a treasurer who was over \$2,000 short in his cash was made to appear a creditor to the corporation to the amount of \$2,616. Mr. Dymond says, "The audit itself was also, as usually performed, of a most perfunctory character. Even when the duty was discharged by men of the intelligence of Mr. John Copeland, it fell far short of being that guarantee to the public that they required. When Mr. Copeland undertook the audit of the accounts of 1878, matters had transpired that had a stimulating effect upon the auditors, and hence Mr. Dymond says, "a very careful effort was made to secure a true and faithful presentation of the affairs of the corporation in the auditor's report. How far the audit never-

theless fell short of what it should have been, the extracts from Mr. Copeland's evidence show."

Mr. Dymond's report describes the manner in which Mr. Allen contrived to pay off \$1,480 which he owed the treasurer. He had served as mayor eight years without salary. The council were induced to vote him \$200 a year, \$1,600 in all. The Court of Queen's Bench decided that the vote was illegal. Mr. Allen had arranged with the treasurer, who on Allen's order took credit for the \$1,600. The matter remained in that shape until the law having been changed, the amount was again voted by the council.

An enquiry made by Mr. Dymond into the affairs of the township of Houghton, exposed yet greater irregularities. In the charges preferred it was alleged that one reeve held office there for twelve years and managed, or mismanaged, pretty much as he pleased. In 1868 the treasurer became defaulter to the amount of at least \$416 and this sum was lost, because the sureties proved to be worthless. His successor was also appointed clerk, and continued to hold both offices until December, 1878, when it was found that one of his sureties had sold his property and left the place, and that the treasurer had not been required to find another. The dwelling of this treasurer was burned on October 14th, 1878, and in it over \$2,000 belonging to the municipality. The courts decided that the loss must be borne by the township, because the treasurer held the money in that way with the knowledge or approval of the council. Indeed, \$1,250 of it was improperly drawn from the bank in an adjoining town a few days before, at the instance of the reeve. The council, some time before, resolved to expend \$4,250 received under the settlement of the Municipal Loan Fund in opening roads and improving those already opened. The reeve was appointed a commissioner to certify to the Provincial Treasurer when the work was done, and "he did certify that the works were completed when they were not nearly completed." Mr. Dymond made a careful enquiry and ascertained that these statements were well founded, and that there were many gross irregularities in the management of the township's share of the Clergy Reserves Funds and other matters. Mr. Dymond reported that "by the mismanagement, imprudence and negligence of various parties, a sum of money approximating to \$2,000, and including \$1,250 of the surplus fund, has been totally lost to the township," and that "by the illegal acts, mismanagement, improvidence and neglect of duty of various parties, the township has lost of the Clergy Reserves funds, principal and interest, not less than \$2,500." Mr. Dymond's findings in this case are twenty in all, and every one condemnatory of misconduct or negligence on the part of the reeve, the council, or the officials. He also reports that so far as the manner of keeping the books has allowed, there has been an annual audit of the accounts for several years past. . . . When the auditors entered on their duties in January, 1878, they found no treasurer and had to audit—not books—but such memoranda and vouchers as Mr. Chamberlain (the reeve) and Mr. Pierce presented to them. When the clerk had the abstract ready for publication the reeve took the matter out of his hands, and made the additions his own way. The statement so made up was published and a correct statement, sent to the printer by the clerk, was suppressed. .

Mr. W. F. Munro's examination of the accounts of the county of Bruce in 1887 shows that for years they were systematically falsified, and that a sum of \$19,000 charged as having been paid out of the sinking fund for the redemption of debentures, had probably been embezzled. The books were kept in such a way as to render the discovery of the fraud difficult, and on the 31st of December, 1886, "there was to the credit of the treasurer at the bank a balance greater than what the cash book called for." This, Mr. Munro says, may be partly explained by the treasurer's "depositing several sums, not county funds, afterwards withdrawn, but chiefly by his issuing and charging at the end of the year a number of cheques which were not presented at the bank until after the beginning of the present year," 1887. Of a \$250,000 issue of debentures the greater part were taken up, but matters were so managed by the treasurer that Mr. Munro found it difficult to ascertain whether the amount outstanding was \$63,000 or \$83,000. The auditing in this case was evidently insufficient to afford protection to the ratepayers.

We hear of misappropriation of the sinking funds in some cases. In one case at least it seems certain that the council used for other purposes the money collected to form a sinking fund. The sinking fund system of providing for the payment of funded debts

has been found to cause inconvenience and loss in many cases, but while the law requires that a sinking fund shall be provided, the taxes levied and collected for that purpose should not be diverted to any other, and when this is done surreptitiously, the wrong is greater. The audit was no check on improper expenditure in this case. In other cases, it is said, collectors manage to keep large amounts for their own use by contriving to obtain possession of the roll for one year before they make return of the roll of the year previous. They are thus enabled to collect enough to cover the deficit on the previous year's transactions before they return the old roll.

We hear from many quarters of irregularities and of suspicions of defalcations. The suspicions may in most cases, or in all, be as unfounded as in the case which Mr. Joseph Blakeley was appointed some time ago to investigate. He found that the suspected treasurer kept his accounts very carelessly, and that no entry was made anywhere of a large number of payments made by him. But an examination of his vouchers showed that he had actually paid more for the municipality than he had received. Even such a mode of managing municipal affairs, however, is exceedingly objectionable. A system so excellent in other respects as ours should ensure as far as possible the proper keeping of municipal accounts.

The necessity for a proper audit becomes greater every year. According to the statement of the Bureau of Industries, the total amount raised by municipal taxation in 1873 was, for general purposes, \$3,453,647, and for school purposes, \$2,152,132. In 1885 the amount raised by taxation was, for general purposes, \$5,448,410, and for schools \$2,884,860. Of this large sum of nearly eight and a half millions the cities, Toronto, Hamilton, Ottawa, Kingston, London, Guelph, St. Catharines, St. Thomas, and Stratford raised less than one-fourth. Besides the amount raised by taxation the municipalities and school boards control the expenditure of what the Government pays to them for administration of justice, which, in 1885, was \$137,002, and for school purposes, which, in that year, was \$350,588. The expenditure of the large sums raised as loans also requires supervision. When all these things are taken into consideration, it will be seen that the importance of a proper audit can scarcely be over estimated.

The system under which the accounts of all public bodies in England and Wales, except only the councils of incorporated cities and boroughs, are now audited, seems to give general satisfaction. The Auditors of the local Government Board audited in 1886-7 the accounts of 736 urban sanitary authorities and their officers, and of forty-one other sanitary boards; of 309 highway boards and their officers; of 700 waywardens; of the surveyors of highways and highway boards for 6,700 highway parishes; and of 2,203 school boards, besides the accounts of joint hospital, water and drainage boards, commissioners for libraries, and all the boards of guardians of the poor. That the audit was thorough is shown by the fact that disallowances and surcharges to the number of five or six thousand were made. In Ireland, as we have elsewhere stated, the accounts of all public bodies (except those of the councils of four incorporated cities) have been audited in a similar manner for some years.

The system of audit in the counties of Massachusetts appears to be very thorough. The townships elect their auditors, but the law relating to the government of counties provides that the treasurer, who has been elected by the ratepayers, shall at the close of every year render his account to the county commissioners and shall account with them for all money received and paid by him on behalf of the county, and when the account is approved and allowed, it shall be delivered by him to the clerk of the commissioners. It is further provided that the county commissioners shall examine and allow the annual accounts of the county treasurer, and shall allow and settle all accounts of the receipts and expenditures of the county.

The Act further provides that the county treasurer and county commissioners at the close of each year shall publish in one or more newspapers an account of the receipts and expenditures of the county, arranged under distinct heads, and a specific statement of the debts of the county, and the purposes for which they were contracted, and the time when they become due.

They also, at the close of the year, and after the accounts have been certified by the Board of Examiners, make a particular statement of the receipts and expenditures of the

county, except the costs of criminal prosecutions and expenses of courts, of which, because these are otherwise especially audited, they may make a general statement; this statement they cause to be published in a form suitable for distribution, and they cause a number equal to one for every 300 inhabitants to be sent to the clerk of each city and town in the county.

The board of examiners or auditors for the county is composed of the judge and registrar of the probate court, and the clerk of the courts. If two of those offices are held by one person, the sheriff becomes a member of the board. Twice every year—in June and December—and oftener if in their judgment circumstances require it, this board make a full and thorough inspection of all matters relating to the county finances, comparing the accounts and vouchers of the treasurer with the record of the commissioners, and if they find them correct, so certifying. They also examine the accounts of the county commissioners for services rendered in the discharge of their duties, and if it appear that such accounts ought to be allowed they “make a certificate thereof upon the same.”

But this is not all. The law further enacts that “The county commissioners, special commissioners, district attorneys, sheriffs, gaolers, deputy-gaolers, and masters of houses of correction, treasurers, clerks of court, and bail commissioners, are required to keep an accurate account, and on or before October 31st, to make return under oath to the commissioners of savings banks (who are state officials) of all sums of money which have in any way been charged or received by them or to their use by reason or on account of their said offices or in their official capacity, and also of all expenditures made or incurred by them by reason or on account of the same for the year ending with the thirtieth day of September next preceding. The commissioners of savings shall establish the same and compile the material parts thereof in tabular form, and on or before the fifteenth day of January in each year report the same to the General Court.”

This means, of course, that the legislature may in every case order further examination of the accounts. But besides all this, the commissioners of savings banks, who are in fact a state board of audit, are empowered and required by law to inspect the books and accounts of the county treasurer at least once a year without previous notice to the treasurer, and examine all original vouchers. They are also required to visit or cause to be visited once a year without previous notice all other county offices, and to examine their books and accounts. The audit provided for in all these cases seems to be as thorough as an annual audit can be. The auditors ascertain also whether the county commissioners have caused indexes of the instruments recorded in the registry of deeds during the year to be made as the law requires, and copies to be made of such records of proprietors, town proprietaries, cities, towns, and counties as in their judgment ought to be preserved and perpetuated. They report to the attorney-general any failure on the part of the county commissioners to carry out the law in these respects.

The county treasurer accounts directly to the state government for certain moneys.

In the month of November the county treasurer notifies all officers who are required to pay over to him any fines, costs, forfeitures, fees or moneys which they receive to make the return required of them by law.

The county treasurer makes return, under oath in the month of January, to the auditor of the commonwealth of all fines, forfeitures, costs, fees, and moneys received by him in criminal matters during the preceding year, and “from whom received,” and also the name of each magistrate or officer who has failed to make account, and pay over to him as required by law.

If neither the British system nor that of Massachusetts seems adapted to the present circumstances of this Province, a system may be devised which without touching upon any of the rights of the municipalities, would secure a thorough audit. A proper audit of the accounts of all the municipalities of a county, including the county council itself, would fully employ the time of one competent accountant for some months, and the amounts now paid by townships, villages, towns and the county for a mere pretence of audit would in most cases afford satisfactory remuneration for the services of such an officer. The plan proposed is that the county council should appoint one man having a certificate of competency or diploma from some association or person to be named in the Act, or by the Lieut-Governor in Council, or on conditio

of his immediately obtaining such diploma or certificate, auditor for all the municipalities of the county ; that the person so appointed hold office for three or five years, but that he may be removed at any time for cause stated by two-thirds of the council.

A competent accountant should be appointed to superintend the audit of the accounts of all the municipalities of the Province. His office should be at Toronto, and it should be his duty to prepare account books with proper headings, and to see that the accounts are properly kept on a uniform system all over the province ; also to prepare blank forms for all returns, which the law requires to be made, or which he may find desirable. Treasurers and all other county officers should be required to procure such books and blanks, and to keep their accounts and make their returns according to the instructions sent from the central office. The auditors should strictly follow the superintendent's instructions as to the manner in which the audit should be made. It should be the duty of the clerk of the county municipality, or of the auditor to send certified copies or duplicates of all accounts when audited, and of all other papers that may be required, to the central office, there to be again examined carefully.

It should be the duty of the county clerk, county auditor, and all other municipal officials, to furnish promptly and fully all information and explanations for which the superintendent may call. And it should be the duty of the superintendent, whenever he found reason to suspect that there was any attempt to cover up any fraud or irregularity, to visit the municipality where he thought such attempts were made, and to make a thorough investigation on the spot. For this purpose he should be empowered to summon witnesses and examine them under oath, and to compel any officer of the county or any other municipality to produce all such books, papers, etc., as he may choose to examine.

Nearly all the gentlemen experienced in municipal affairs whom we had an opportunity of consulting, think that under such a system as this, properly carried out, there would be reasonable assurance of a satisfactory audit. And it would be inexpensive. When the ratepayers in any municipality believed that through the incompetence of the county auditor or with his connivance the funds of the municipality were misappropriated or wastefully or fraudulently expended, they should have the right, as now, to demand an enquiry. The superintendent in such case would conduct the enquiry, unless his own conduct was impugned, or the Lieut.-Governor in Council preferred to appoint a special commissioner.

Mr. Munro, who audited the county of Bruce accounts after the treasurer's defalcation, thinks that if the treasurer of every county were required to prepare a statement of receipts and payments once a week by filling up such a blank as he submitted, and to put it up in his office where any ratepayer who chose could see it at all reasonable hours, much would be done to prevent the embezzlement or improper use of the public money.

Assessment.

It seems to be as difficult to get a fair assessment in the townships as in the cities and towns. It would matter little whether property was valued for assessment purposes at one-quarter, one-half, or three-fourths of the real market value, or at the full value, if only all in the township, the village, and town were valued alike, and the ratio of taxation were fair in all cases. But as mistakes and blunders will be made, and as feelings personal or political will influence even assessors who believe themselves incapable of wilful wrong doing, there should be some mode of redress when injustice is done, and redress is more easily obtained where all property is assessed at nearly its full value than when all, or nearly all, is assessed much below its value. The tendency everywhere is to assess much under the value. According to the statement in the report of the Bureau of Industries the value of all the real property in the Province in 1885 was \$615,937,773, and of all the personal property only \$60,798,203. There is no room to doubt that the real property is greatly undervalued ; the valuation of the personal property is relatively much lower and yet both are much higher in proportion to the actual value than they were a few years ago. The law directs that "real and personal property shall be estimated at their actual cash value as they would be appraised in payment of a just debt from a

solvent debtor." No attempt was made to assess upon the principle thus laid down until 1875, when, as the report of the Bureau says, "real property was put up \$113,300,000, and personal property \$6,200,000 above the assessment of the previous year." In the following year there was a further increase of \$47,000,000 in the aggregate; still the assessed is in very many cases far below the real value of property. A cause of undervaluation is in many cases the desire of one or more townships to evade by that means the payment of their full share of the county expenditures. For many years the chief work of the county councils was the equalization of the assessments, as it was called, and in some cases this is still a work of difficulty. Some gentlemen, experienced in municipal affairs, thought that the present system of equalization works fairly well, and that no serious injustice is done. Others insisted that it can not work well as few members of any county council are acquainted with all the lands of the county, and the representatives of each of the minor municipalities think it is their duty to do all they can to keep the taxation of their own constituents as low as possible.

The assessed values differ greatly in different counties, and not always as actual values differ. In 1885 the average assessed values of land per acre were, in Essex, \$17.27; in Kent, \$30.37; in Elgin, \$28.70; in Norfolk, \$21.82; in Haldimand, \$25.79; in Welland, \$29.35; in Lambton, \$22.25; in Huron, \$32.71; in Bruce, \$20.98; in Grey, \$14.58; in Simcoe, \$11.11; in Middlesex, \$29.70; in Oxford, \$40.53; in Brant, \$42.55; in Perth, \$34.42; in Wellington, \$22.24; in Waterloo, \$27.83; in Dufferin, \$12.23; in Lincoln, \$23.65; in Wentworth, \$39.83; in Halton, \$32.75; in Peel, \$31.40; in York, \$43.43; in Ontario, \$31.78; in Durham and Northumberland, \$26.61; in Prince Edward, \$25.10; in Lennox and Addington, \$16.22; in Frontenac, \$6.62; in Leeds and Grenville, \$13.26; in Dundas, Stormont and Glengarry, \$15.66; in Prescott and Russell, \$7.61; in Carleton, \$13.60; in Renfrew, \$2.62; in Lanark, \$6.96; in Victoria, \$10.56; in Peterborough, \$13.48; in Haliburton, \$1.05; and in Hastings, \$9.70. There is probably no case in which the assessed value as thus stated exceeds from 60 to 65 per cent. of the real value, and in many cases the assessed value is ridiculously low.

Burroughs, an American writer, in his work on taxation, says, "The question how land is to be valued, or upon what basis, has given rise to much discussion in legislative bodies. The difficulty is generally to obtain a uniform valuation throughout the State, so that each part of the State may bear its appropriate part of the burden. This difficulty arises whatever may be the standard of valuation, and an attempt has been made to obviate it by boards of equalization. In Michigan and California the standard is the cash value; in New York it is as "a sum which the majority of the assessors decide to be the true value whereof, and at which they would appraise the same in payment of a just debt from a solvent debtor." The expression in most of the States is either "cash value," "fair cash value," "at its true value in money," or "in ready money." In Iowa it is at its true cash value, having regard to its quality, location, natural advantages, general improvements in its vicinity, and all other elements of value." In Arkansas water privileges are especially designated as an element of value; and in Illinois the value of growing crops is expressly excepted as an element of value. . . The price which land brought at a recent public sale will always be regarded as *prima facie* evidence of its real value. The owner is allowed, in many States, to make affidavit as to the value of his land, and in New York prior to 1851 this affidavit was conclusive as to its value; but now a more reasonable system prevails, and it is only one of the elements to be considered by the assessors in forming their opinion."

The laws, however, are not strictly carried out in any of the States, and in many cases the assessed values are little, if at all, more than one-half the real values.

The difficulties which are experienced in Ontario in obtaining a satisfactory assessment have been experienced everywhere and at all times since the system of assessment was first introduced. An Act 15-16, Vic. c. 81, consolidated and amended twelve Acts passed during the reigns of George the Second, George the Third, George the Fourth and William the Fourth, and in the early years of the reign of Queen Victoria in relation to the assessment and collection of the county rates in England and Wales. The Quarter Sessions were by this empowered to appoint, as often as they may deem it necessary, a special committee not exceeding eleven in number nor less than five, "for the purpose of

preparing a basis or standard for fair and equal county rates." Ample powers were given to this committee. They were empowered to call on all overseers of the poor, constables, assessors, collectors of rates and others to furnish such information as they possessed, and to direct, when they thought fit, that the whole or any part of any parish, township or place within the county should be valued, and to appoint persons to make such valuation. Provision was made for hearing and disposing of objections to this valuation coming from individuals, parishes or places. The basis of taxation, this Act says, should be "founded and prepared rateably and equally, according to the full and fair annual value of the property, messuages, lands, tenements, etc." The Act provides complete machinery for fixing the basis, yet the assessment is not quite satisfactory to all parties. A special valuation of London is made every five years. The Ontario municipal law authorises county councils to have a quinquennial valuation of all the property in the counties made. We have not been able to ascertain the extent to which this power is used, but in the county of Ontario, as we are informed, a general quinquennial valuation is now made the basis of assessment, and it is found to give much more satisfaction than the system of township assessment by township assessors. In Ireland a general valuation has more than once been made by government officials under authority of Acts of Parliament, and it was generally considered fair, time and circumstances being taken into account. Some of those whom we consulted insist that the only means by which a fair valuation can be procured in this Province is the appointment of competent valuers by the Provincial Government. That may seem to be an interference with the rights of the municipalities to manage their own affairs, and it should not be necessary, although it may serve a good purpose if one or more townships were given the right to call upon the Provincial Government to cause a valuation of their whole county to be made.

The constitution of the State of Massachusetts, Article IV, provides, "And while the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has hitherto been practised, in order that such assessment may be made with equality, there shall be a valuation of estates within the Commonwealth taken anew once in every ten years at least, and as much oftener as the General Court shall order."

This State valuation, the county commissioners are required by law to make the basis upon which to apportion county taxes amongst the townships.

MISCELLANEOUS.

The subjects suggested for our consideration by those who take an active interest in municipal affairs, are numerous, and many of them are no doubt important. Besides those to which we have been able to give attention, we may name "the abolition of market fees; the cost of prosecutions and of the maintenance of prisoners and its distribution; a cheap and simple means for the closing and diverting of highways that will afford ample protection to the public; a more exact definition of the purposes for which councils may expend money, and a means of surcharging and recovering from members of a council money wrongfully spent; the necessity for imposing effectual checks on the expenditures of police boards and school boards; the advantages and disadvantages of the sinking fund system; the desirability of making the payment of loans hereafter contracted on the equal annual payment system, compulsory; a quicker and cheaper mode of contesting disputed elections; the reduction of the maximum rate of taxation where the local improvement system is adopted; the possibility and desirability of providing against level railway crossings in cities and towns, and of making and enforcing such regulations of railway movements as may be found necessary; the best means of encouraging and enabling towns and villages to provide proper protection against fire, and a supply of pure water; the sufficiency of the powers of expropriation which municipalities now possess; the possibility of improving the means of promoting the drainage of agricultural lands; the taxation of non-resident lands with a view to the fairer distribution of the burdens of taxation; the terms on which telegraph, telephone, gas and other

companies should be permitted to use streets, if this be within the competency of the legislature; the development of what is known as the bureau system in some counties in which magistrates and constables are accused of encouraging litigation.

A gentleman of much experience states that in some instances the public interests suffer because Provincial officers whose duties never place them in official relation with the municipalities, are disqualified by law for election as members of any municipal council.

Difficulties, we are informed, frequently arise between the councils of towns separate from counties and the councils of the counties in which such towns are situate, and that a means of preventing them could be found.

We have been asked to recommend that the local improvement system, as now applicable to cities and towns, may be made applicable to those townships or parts of one or more townships in which good roads are of prime necessity, and where from the nature of the soil, such roads would cost more than the districts could raise in the ordinary way. Wherever it may be found expedient, it was urged, these roads may be constructed along the lines of arterial drains with advantage to both, and a saving of expense. Whether the farms back of those fronting on such roads, or the cities or towns to which they may lead, should contribute any portion of the cost, ought, it was urged, be settled by decision of the county council or by arbitration.

We are told that some rural municipalities would be relieved from much trouble and worry and the payment of exorbitant law charges if a form of by-law authorizing the issue of debentures for general purposes similar to the form of by-law authorizing drainage debentures now given in the Act, were made the statutory form, as that is.

It has been suggested that the drainage system, although essentially good, and although it has been of vast benefit to the country, has become complicated and cumbersome by reason of the many amendments made to it, and that it should be simplified.

A gentleman who has had much experience as a member of one of the municipalities of Essex states, that the law as it now stands leads to much litigation in that county, and that in one township the cost of litigation amounted to nearly \$2,500 within two years. He thinks that much of this litigation would be prevented if in all cases in which two or more municipalities of the same county were interested, the persons desirous of having any drainage works undertaken were required to make application, not as now to one of the minor municipalities, but to the county council. In that way, he thinks, arbitration between the townships would be rendered unnecessary. Arbitration seems a ready, easy, inexpensive, and in every way satisfactory mode of settling such differences as may arise in carrying out such works. But in Essex, he says, it has proved troublesome and very expensive. He would have all appeals from the decisions of the county council made directly to the county judge. He argued also that the petition asking that such works be undertaken should be signed by a majority of all directly interested.

The provisions of Section 603 R.S. are not sufficient, he says, to prevent the evils of which he complains. He contends also that whenever appeal is made from the decisions of the county council the by-law authorizing the work should not have effect until the appeal is disposed of. His reason for this seemed to be that the work could be carried on more satisfactorily after all disputes had been settled. He insisted strongly that an amendment of the Act in this respect made recently has been injurious in its effects. Wherever arbitration is necessary the arbitrators should be required to meet on the ground, and provision should be made which would prevent the costs exceeding \$20. This, he thought, quite practicable. For carrying out such works where two or more counties are interested, the present system is said to be unsatisfactory.

The Municipal Law of the Province of Quebec provides that "in every county there shall be three delegates to represent the interests of the county at every meeting of delegates held under the provisions of the Act, and to exercise and perform in conjunction with delegates sent from another or several other counties, as the case may be, the powers and duties hereinafter mentioned." The warden shall be *ex officio*, one of the said delegates. "The two other delegates shall be such two members of the county council as shall be appointed for that purpose at the first session held after the general election of

councillors, or at a special session held within fifteen days from the first day of such general session." The council of the county in which the work to be done is originally proposed appoint a special superintendent to examine, and report, and when his report has been filed the warden of that county gives special notice to the delegates of all the counties interested of the time when, and the place where they shall meet. When they meet they form a Board and all disputed questions are decided by a majority of the votes of the delegates present.

It has been suggested that townships should not have power to borrow money from the banks for local improvements, and that the powers of county councils and township councils should be better defined, but the person making this suggestion does not explain in what respect he thinks there is room for doubt as to the extent of those powers in either case, or where they clash.

More effective means, it is said, should be provided to prevent the treasurer of a municipality from paying an order drawn on a fund that is exhausted, and the personal demand made by tax collectors, which now causes much useless expense, should be dispensed with.

A gentleman, writing from London, asks that "the question of allowing the formation of villages and towns adjoining an existing city, town or village," be considered, and that some more effective machinery be provided to avoid the dangers and annoyance caused by the existence of such rival corporations. He also calls attention to the fact that "although the Municipal Act apparently provides ample powers to extend limits under the proclamation of the Lieut-Governor, still, as almost all lands to be annexed are under share of a county debt, and all cities are under special debt Acts preventing any increase of liabilities, it is impossible to annex without adding share of county debt, and so a special Act is necessary for each addition." He suggests that the Municipal Act should be so amended that "an increase of liabilities in this way may be allowed by the proclamation notwithstanding any provisions to the contrary expressed in any special Act relating to either of the municipalities or their respective debts." London, he adds, furnishes a case in point.

It is suggested that the law should be so amended that "a proper setting aside of the sinking fund on debenture debt "would be thoroughly enforced." Annual returns to the government, it is suggested, "would be some guide as to whether the requirements of the Acts were carried out and the department could be given some method of enforcing its due collection and preservation."

It has elsewhere been suggested that if the system of equal annual payments were adopted, as we are informed it has been generally adopted in English municipalities, the collection and investment of sinking funds would no longer give any trouble or afford opportunity for waste, misappropriation, or embezzlement.

We have endeavoured to obtain information on these and other points, but all that we have been able to gather is not sufficient to justify our reporting upon them positively or at any length. Nor have we been able to ascertain how such difficulties have been overcome or obviated elsewhere.

Amongst the persons familiar with the working of our municipal system, we found much difference of opinion on several of these questions. One whose opinion we would be inclined to regard as almost authoritative, thought that no enlargement of the powers of any of the municipalities is necessary. They do not, he said, use all the powers they now possess. Others were of a different opinion, and the number of bills introduced in the Legislature in which it is proposed that greater powers, or greater discretion in the use of their powers, be given to the municipalities, or that the Legislature do by direct enactment what essentially belongs to municipal government, seems to give weight to their opinion. Before making such a report as would be entitled to consideration it would be necessary to ascertain what the experience of the working of our system as it now is has been in various parts of the Province, and to what conclusions that experience has led the men who have taken the most active and intelligent interest in municipal affairs. We have found that in some districts amendments are desired in some sections of the law which in other districts appear to have worked satisfactorily. We have found also that matters which some regard as of the very first importance, others regard as of minor im-

portance or as requiring no especial consideration. All this is quite natural, because the circumstances and conditions in different districts vary widely, and each is inclined to attach importance only to that which immediately concerns itself. However, the true policy unquestionably is, taking advantage of the experience of every district, and paying due regard to the wants of each to modify the system as a whole, expanding it as the country grows, and cities and towns become populous, so that the council of every district, town and city could find in it all the powers, and all the aids and facilities, that legislation should give, and so that at all times all the responsibilities properly theirs should rest upon them instead of passing an Act to deal with every difficulty, real or imaginary, that may be brought under the notice of the Legislature. The great excellencies of our municipal system are its simplicity, its symmetry, and, looking to the past one may fairly add, its sufficiency. These have been marred by the passing of a number of special Acts. It is possible to destroy them by excessive legislation, and to make what is now simple, complex and scarcely intelligible, what is now symmetrical, a mass of contradictions and confusion. Progress may be necessary; real progress is always desirable, but we should take care that when we move it is to advance in the right direction, and without breaking our line. Our municipal system is now one of the best in the world; it will continue to be one of the best if from time to time we make those changes, and only those, which the most deliberate consideration shows to be necessary or desirable.

TOLL ROADS.

The want of a proper municipal system in Great Britain and Ireland, led to the construction of docks, sewers, streets, and other necessary works in cities and towns by trustees, acting under authority of special Acts of Parliament, and to the construction throughout the country of the great highways usually called turnpikes. For each of these highways there was a special Act of Parliament, and a special board of trustees were empowered to charge tolls and to raise money for the construction or improvement of the road on the credit of the tolls. The number of Acts of Parliament was enormous, and every year a short general Act was passed continuing all such Acts. The Acts in amendment of the special Acts were numerous. The counties and townships in England, the counties and parishes in Scotland (and in Ireland) the counties—or baronies, when the county authorities so directed—supported all the other roads. The toll-gates were numerous; and the payment of tolls was everywhere found to be vexatious and in some cases even oppressive. It was found also that this mode of making and maintaining roads was very expensive. For a long time the trustees were virtually uncontrolled. Money was borrowed at high rates of interest, high prices were paid for all the work done, and the cost of collecting the tolls was considerable. Still the English dislike of change and the unpopularity of the "Quarter Sessions" which managed other thoroughfares caused the people to endure what they felt to be a grievance, and little change was made in the system until toll-gates so multiplied in Wales that the grievance became intolerable, and the Rebecca riots demonstrated that a change had become necessary. Even then Parliament proceeded slowly. The Act of 1844 created county boards for the management of all the roads in the counties of Wales, and gave to those boards power to remove toll-gates wherever it seemed expedient. The abolition of toll-gates soon after commenced in England, but it proceeded very slowly. Information was first obtained in the usual way as to the condition of all the turnpike trusts, and then the time for the abolition of tolls, or rather the time at which, in each case, the Act authorizing the management by trustees and the collection of tolls should expire, was determined according to the conditions of the trust, the amount of its indebtedness, etc. Care was taken that no bad debts should be incurred, and that the income of the roads should not be wasted. In several cases it was found necessary to extend the time of the currency of the special Acts. The schedules of the Acts of Parliament, in which the special Acts to expire at certain periods are described merely by their titles, occupy several pages of the statutes at large of those years. As the roads were dis-turnpiked the question arose as to

the manner in which they should thereafter be sustained. The counties undertook the maintenance and control in some cases. In others they succeeded in imposing the burdens upon the townships or parishes. These complained that the burden was too heavy, and several roads or parts of roads were not kept in proper repair. Several highway district boards, representing unions of parishes were then created, on which the occupiers of land were allowed some representation, although the resident justices who were all *ex-officio* members, largely outnumbered the elected way wardens. The county authorities—the Quarter Sessions—however, found it necessary to assist these boards in the maintenance of the old turnpikes to the extent of one-half the cost, and they in turn clamored for—and being then powerful in Parliament eventually obtained—assistance from the Government. The report of the Local Government Board for 1886-7 states that the number of turnpike trusts in England, (exclusive of the Isle of Wight) and North Wales, so late as December 31st, 1864, was 1047, the length of the roads comprised therein being 20,189 miles, and that on January 1st 1887, only fifteen of these trusts embracing in all 269 miles of road were in existence. Of these four would expire in 1887, four in 1888, one in 1889, one in 1890, and one—a bridge—in 1896. Two other trusts have not yet been finally dealt with. In South Wales several turnpikes were still in existence under the management of the county road boards, created by the Act of 1844, and the tolls collected on these roads amounted to £23,412. In England and Wales there were last year, besides the turnpike roads, 16,995 miles of what are called main roads, and 101,046 miles of ordinary highways, and the expenditures on them all, exclusive of loans, was £2,036,110. In Ireland and in Scotland, we believe, all the toll-gate roads were “dis-turnpiked” many years ago.

In the Maritime Provinces, toll-gates, as a means of raising money to pay for the construction and maintenance of roads or bridges were never in favour. A few years ago there was but one toll-gate in all New Brunswick. That was at a bridge near St. John, built by a private company. Public opinion has compelled the removal of that. The Government now owns the bridge, and there is no longer even one toll-gate in the province.

The construction of turnpike or toll-gate roads was much encouraged in the early days of Ontario, probably because good roads were much wanted, and neither the provincial government, nor the local authorities could raise money enough to do all that was necessary for opening up the country. A law was passed which authorized any persons who chose to constitute themselves a body corporate for the purpose of building a road anywhere. These persons were only required to file in a government office a statement, showing what they proposed to do, and they became immediately clothed with powers to take land, material, etc., paying for them by agreement or arbitration, and to charge what tolls they pleased within the limit defined by the Act, on the all traffic passing over the road when built. Probably many of those roads were at first of great benefit to the public. But the feeling that they are out of date, and that they have become a great obstacle to progress an annoyance, and in most cases even a nuisance has been general for some time. This feeling grows stronger every day, and the demand for the abolition of such toll-gates as still remain is almost universal.

At the last session of the Provincial Legislature, a committee was appointed to make enquiry and report upon this subject. They reported that, “the time has arrived for putting an end to the existence of toll-roads, and that legislation ought to be provided requiring the county council, upon the application of a reasonable proportion of the ratepayers or of a municipality interested, to pass a by-law for acquiring any toll-roads, and putting an end to the tolls thereon, and for referring to arbitration the question of the proportion in which the cost incurred ought to be borne by the ratepayers, local municipalities, and counties at large, respectively.” The voluntary principle, would in all probability, work much too slowly in a case like this to satisfy public opinion. Some counties in which public opinion was healthy and strong bought up the toll-roads and abolished the tolls years ago. Others, which acquired the property in the roads still cling to the toll system, because they find that it enables them to exact from others than the ratepayers of the county or the district a part of the cost of maintaining their roads. In some counties the toll-roads having ceased to be profitable were abandoned by the owners, but in many the old system remains still in full operation, and in all probability

it will remain in operation for many years if it be left to the voluntary action of rate-payers and councils to put an end to it. With municipalities which have toll-roads under their control, the committee proposed that the legislature should act more peremptorily. They reported that municipalities should be required to abolish the tolls on toll-roads under their control within three years. The public, we believe, would be better satisfied if all tolls were abolished absolutely at a much earlier day, say on the first of January next, or even sooner, and at the same time provision were made for determining the amount of compensation to which private individuals, who own any of these roads are fairly entitled, and for determining also how the cost of purchase, and cost of maintenance should be distributed. Pending an agreement or an arbitration it may be provided that where toll-roads are owned by counties or townships they should be maintained by the present owners and that such roads as are now owned by companies should be maintained by the counties or the townships through which they run.

Where the parties fail to agree amongst themselves the claims and liabilities should be settled by arbitration. The value of the roads owned by companies could be determined without much difficulty. But in determining the value not only the net income for the past few years should be taken into account, but also the present condition of the road, as income might, in some cases, have been increased by undue reductions of the expenditure on maintenance and repairs. It may be found more difficult to determine whether, in any cases the counties or the townships should bear the whole cost of purchase and afterwards of maintenance, or if the burdens should be divided between the counties and other municipalities within the limits of the county what portion each should bear. It is contended in some cases that the cities or towns to which they lead are more interested in the opening of these toll-roads than the counties or townships through which they run. As this may be true, means should be taken to determine what part, if any, of the cost of purchase, etc., should be borne by the cities or towns interested. It is manifest that if the parties fail to agree, all such questions can best be settled by arbitration, but it may be well if the legislature not only provided how the arbitrators should be chosen, but also laid down some rules for their guidance. It may be necessary to provide that if any party refused to appoint an arbitrator after reasonable notice, the government should appoint an arbitrator to represent such party, or should appoint commissioners whose award or decision would be binding.

We have found it difficult to obtain all the information which it is desirable to have as to the number of toll roads still in existence, their length, original cost, gross and net income, etc. The committee of the legislature examined all the members of that body who were supposed to have any knowledge of the facts, but all the information they could gather was scan and unsatisfactory. In their report they recommended that "The government should, during the recess, insist upon the compliance by all road companies with the provisions of the law requiring returns to be made as now provided, and to enforce the penalties imposed by law for non-compliance." But so regardless of these provisions of the law had the proprietors of many of these roads become that, as we learned when we applied at the office of the Provincial Secretary for an abstract of these returns, only eighteen have been sent in since the committee made that report. We sent a circular to the clerk of every county municipality, asking him to let us know if there were any toll roads in the county, and if there were, to tell us, if he could, what the number was, by whom each was owned, and the name of the president or secretary of each; also to give us such further information as he could as to the length of each road, its cost, its gross and net income, etc. To some of these circulars we have received no answer. Such information as was given in the answers that were sent to us, and the information obtained by the legislative committee, we summarize, placing the names of the counties in alphabetical order for convenience of reference.

Brant.—Mr. Wood, M.P.P., stated to the legislative committee that there are about twenty-one miles of toll roads in North Brant in three sections owned by three different parties. Of one road, running from Brantford to Hamilton, about eight miles are in Brant county. This is owned by Mrs. Ramsay, and on it there are two tolls. A road from Brantford to Paris, six miles in length, with two tolls, is owned by David Patton.

A road running from Paris to the village of Ayr, about seven miles in length, is owned by Samuel Cochrane. It has two tolls. The road owned by Mrs. Ramsay extends to and beyond the village of Burford. Its length in this riding is from six to ten miles, and there are two tolls on that part of the road also.

We received no reply to our circular from the clerk of this municipality.

Bruce.—Mr. Dack, M.P.P., stated to the legislative committee that there never were any toll roads in this county, and that the roads are the best in the Province. They were built by the county which had the land improvement fund to draw upon and went into debt besides to the extent of \$250,000.

The clerk of the county municipality makes a similar statement and adds that the roads when built by the county were "handed over to the municipalities for maintenance."

Carleton.—This county, as stated before the committee, has three toll roads, viz: the Bytown and Nepean, eight miles in length with two gates; Bell's Corners and Richmond road, ten miles long with two gates, and Ottawa and North Gower road, six miles long with two gates. The Ottawa and Metcalfe road extends three miles into this county.

The returns made to the Provincial Secretary's office give the following statement of the assets, etc., of the three roads:

Name of Road.	Cost.	Capital Stock.	Tolls, etc. received during year.	Paid in dividends.	Paid for repairs during year.	Total amount expended in construction and repairs.
	\$	\$	\$	\$	\$	\$
Bytown and Nepean.....	25,633	22,000	5,390	660	2,245	25,633
Ottawa, Montreal and Russell.....	88,914	57,940	5,127	2,886	1,328	158,744
Ottawa and Gloucester..	86,350	63,880	8,335	4,471	2,877	189,352

These figures require explanation to be quite intelligible. In one case the original cost is said to be the same as the total amount expended. In the others all expenditures on repairs appear to have been added to the original cost to make up the "total amount expended." In no case do the amounts said to have been paid as dividends and expended in repairs equal the amount received as tolls, etc., during the year. In the case of the Bytown and Nepean road very nearly one-half the total receipts remains unaccounted for. The amount paid to toll-gate keepers is not stated as the statute requires.

Dufferin.—There never was a toll road in this county.

Dundas.—The clerk writes that there are two toll roads in this county. The Matilda gravel road, eleven miles long, is owned by the municipality of Matilda. It cost \$12,000. The tolls amount to \$1,000 a year and a like sum is expended in repairs. Public opinion is in favour of the maintenance of the toll gates on this road. The other is the Williamsburgh gravel road, owned by Messrs G. S. Whittaker and Isaiah Meekley. It is six miles in length and cost \$6,000. The tolls amount to \$1,400, the expenses of maintenance to \$800 or \$900, and the dividends to about \$500. Public opinion is unfavourable to the maintenance of the tolls on this road. Neither of these roads made last year the return required by the statute, and no information respecting either of them was obtained by the legislative committee.

Durham.—The report of the legislative committee states that the toll roads were abolished in the west riding of this county many years ago. The legislative committee report that in Northumberland and Durham there are four toll roads. (See Northumberland.)

Elgin.—According to the statement made by Mr. Ingram, M.P.P., to the legislative committee, the London and Port Stanley road was constructed by the Government and afterwards sold to the county of Middlesex for \$15,000. After the division of the county Elgin bought the fifteen miles of road in that county. The greater portion of this is in the east riding. The municipality has a toll gate on it and expects to pay off

the debentures in ten or twelve years. The portion of the road in the west riding was leased for ninety-nine years and Mr. Hepburn, who now owns it, asked \$20,000 for it when the county council proposed to buy it, although it was then in bad repair. There are two toll gates on this road.

Neither of these roads made last year the return required by the statute.

The clerk states, in reply to our circular, that there are two toll roads in this county. The St. Thomas and Aylmer gravel road, four miles in length, owned by the township of Yarmouth, and the London and Port Stanley, about eighteen miles, owned by the county of Elgin. "The St. Thomas and Aylmer road was purchased from the counties by the townships four years ago at a cost of \$9,959.08 and debentures to run for ten years were issued. Toll will be collected until a sufficient sum is realised to pay off debentures and all repairs to road until (when) gates are (will be) removed. The net revenue during the past four years, \$6,246.18. If receipts average the same during the next four years the gates will be removed about December, 1891."

The London and Port Stanley road can be purchased for about \$16,000 from the lessees. At present the road pays about ten per cent. on that amount. The principal objection to the township's assuming this road is the large bridge near St. Thomas. Public opinion is strongly in favour of dealing with this road as the St. Thomas and Aylmer road was dealt with, but as yet no definite action has been taken.

Essex.—Mr. Balfour stated to the legislative committee that there are four toll roads in Essex, viz., the Amherstburg and Maldon, seven miles long, with two toll gates; the Sandwich and Windsor, two miles long, with one gate; the Windsor and Talbot, eleven miles, with three gates, and an extension of the road into Windsor, four miles, with two gates. The owners value those roads at \$58,000. The county council proposed to purchase them, and valued them at \$31,000. All the owners, except the owner of the two-mile road between Sandwich and Windsor, were willing to accept the price offered. He wanted an amount equal to the nominal price of the watered stock, and the whole scheme fell through.

The Talbot and Windsor, eleven miles, is the only one of these roads that has made the statutory return. According to that,

The cost of the road was.....	\$16,000 00
The total amount expended.....	26,013 00
Capital stock.....	16,000 00
Amount of tolls expended.....	9,176 25
Amount received during the year from tolls, etc.....	642 70
Dividends paid.....	418 70
Paid for repairs.....	42 00

It is also stated in the return that the capital stock paid in was \$12,000, and that \$4,000 was borrowed from Windsor. This debt was discharged afterwards by making the road within Windsor free of toll. The clerk of this municipality sent no reply to our circular.

Frontenac.—According to the report of the legislative committee this county has a great number of toll roads. The Kingston and Gananoque, fifteen miles long, four gates, bought, by township of Pittsburg. The Centre Pittsburg, five miles long, one gate; bought by same township. The Phillippsville, twenty-four miles long, with five gates; bought by the same township. The Perth road running north from Kingston, twenty miles long, with three gates, owned by a joint stock company. The Stormington road, sixteen miles long, with two gates, owned by a joint stock company. The Cataraqui and Sydenham road, length not stated, three gates, owned by a joint stock company. The Portland road, length not stated, three gates, owned by a joint stock company. The York road from Kingston to Napanee, three gates, sold by the county to keep the road in repair. The Bath road, seven miles long, two gates, owned by a joint stock company. The Front road, five miles long, was made free by the county and the city of Kingston. Not one of the nine toll roads in Frontenac made the statutory return last year. No reply to our circular was received.

Glengarry.—This county never had toll roads.

Grey.—The clerk reports that there are no toll roads in this county. The municipalities make and maintain the roads.

Haldimand.—The clerk writes, "There are not any such roads in this county."

Haliburton.—The clerk writes, "The roads in this county have not yet reached a condition in which tolls might be collected, and it is sincerely hoped that the antiquated system will never have a foothold here."

Halton.—The clerk states that there are no toll roads in this county.

Hastings.—Mr. Woods, M.P.P., stated to the legislative committee that this county had at one time 136 miles of toll roads, 88 built by the county and 48 by companies. The county abolished the tolls on its own roads, bought out the companies by agreement, paying them about \$2,000 per mile, and abolished the tolls on their roads also. The county applied what it received from the municipal loan fund to paying off the balance of the debt, and now it has 300 miles of gravel road free to all, and owes nothing. If the roads in other counties are to be freed from tolls, the people of Hastings think that the counties should pay whatever may be necessary, as Hastings has done.

The clerk writes that in 1860 the county council passed a by-law for the purchase of all the proprietary roads in the county, and in 1861 the purchase was completed at a cost of \$57,800. Since that time the roads have been maintained from the general fund of the county. The cost of maintaining the 330 miles of gravelled roads in 1887 was according to the estimates \$13,000. The estimate for repairs, etc., of 324 bridges was \$10,000, and for repairs of roads not gravelled \$5,500.

Huron.—The report of the legislative committee states that in 1859 this county built 101 miles of road, having 19 toll gates, and that in 1857 a company built 26 miles with 12 gates. In 1872 the county abolished the tolls on its own roads, and in 1873 leased the company's roads. In December, 1873, the county imposed upon the municipalities the cost of maintaining these leased roads, and about the same time abolished the tolls on them. The report leaves the impression that the county still pays a rent to the company. It states that the county has expended \$500,000 in building over 200 miles of gravel road.

The clerk, in his reply to our circular, states that there are now no toll roads in the county. There were 23 toll gates in the county, but they were abolished in 1873, to the great satisfaction of the people of the county. The roads (all in the county) cost nearly half a million dollars. The county maintains all bridges of twenty feet space or upwards on these roads, and the roads themselves are maintained by the statute labour. The roads appear to be in as good condition now as they were fourteen years ago when the toll gates were abolished.

Kent.—The report of the legislative committee states that in Kent there are now no toll roads. There were formerly three toll roads. The companies refused to keep them in repair, and abandoned them. They are kept in repair by the townships now, and no tolls are charged upon them. We received no reply to our circular from Kent.

Lambton.—There is one toll road in this county, the Simcoe and Florence road, about eleven miles in length. The proprietors made the statutory return last year. In this they state that the capital stock is \$35,040; the amount expended, \$40,286; the amount received from tolls, etc., during the year, \$4,487; the amount of tolls expended on the road during the year, \$3,115; the dividend none; paid for repairs, \$1,873; the amount paid on capital stock, less discount on debentures, \$30,190.

The clerk of the county municipality writes, "Original cost about \$40,287. The road was of greater length but about eight miles of it was abandoned. Expense of maintenance, \$1,741; revenue, \$3,096; all spent on the road itself and subsidiary roads. No dividends have been paid." He thinks that all the roads in the county should be maintained and controlled by the county, as under the present system every township makes its roads to suit its own especial wants without regard to the neighbouring townships. The main roads should be built under a comprehensive system and made continuous through the county. The main roads are improving, but the improvement in the township roads is slow. Public opinion is decidedly opposed to tolls.

Lanark.—A road called the Drummond and Bathurst concession road made a return which states that the capital stock was \$16,820; the amount received from tolls during

the year, \$2,807 ; the amount paid in dividends, \$1,149 ; the amount paid for repairs, \$618.53. Some small sums were due for unclaimed dividends and salaries, and no capital account is to be found in the company's books.

Mr. Lees, chairman of the legislative committee, stated that there are in all four toll roads in Lanark, viz.: the Scotch Line road, between Burgess and Bathurst, eight miles, two tolls; the road between Bathurst and Drummond with a branch in Bathurst; a road of six miles which runs through the township of Drummond and into the village of Lanark. This road was owned by a company which became insolvent. The road was sold and was bought by one person, who still holds it. There are eight toll gates on all these roads.

N. Lanark.—Mr. Hilliard, M.P.P., stated before the legislative committee that the Perth toll road extends one mile into Lanark county; and that this is the only toll road in North Lanark.

South Lanark.—Mr. Brooke, town clerk of Perth and county clerk of Lanark, appeared before the committee as one of a delegation. "The question of toll roads," he said, "seems to be annoying many counties, and particularly the county of Lanark. . . . Our toll roads are almost all on one side of the county . . . parts of townships only being interested in many cases . . . only two townships might be said to be directly interested in the toll roads." In some instances they, the roads, pay only two or three per cent. and in only one or two about eight or ten." He suggested a scheme of grouping the townships and parts of townships interested, and the town of Perth that they may be able to buy out the rights of the companies. In answer to questions put to him, Mr. Brooke said, "We have a twelve mile road and we have to pay four tolls on that road. We have also the Scotch line road with two gates owned by Rev. Mr. Wardrop, Toronto. The Perth and Whitefalls road was a plank road. It became worn out, was abandoned, and the township of Elmsley has since kept it 'in a kind of repair.'" Mr. Noonan, warden of Lanark, confirmed Mr. Brooke's statements, and joined in urging the amendments sought. He said "there are three roads owned by companies and two by private individuals. There are eight miles of road at present paying a fair dividend—about eight per cent. but the other roads, I would say, are hardly worth anything." Mr. Fink, Mayor of Perth, spoke to the same effect and said, "We have twenty-six miles, I think, of toll roads." I've heard the price figured at \$2,000 a mile and over, but thought the whole could probably be bought for \$27,000.

The county clerk sent no reply to our circular.

Leeds and Grenville.—Mr. Preston stated to the legislative committee that the stone road from Brockville to Westport, 45 miles, was a toll road, but there are now only 15 miles on which tolls are collected, the gates having been taken off the road from Farmersville. There are now four gates. Those municipalities, some years ago, both took the gates off the portion of the road which runs through their townships. He did not know whether they bought that part of the road but each township has charge of its own section and now keeps it in repair by statute labour.

Another statement submitted to the committee says, "In this county, Victoria road, built by the county, runs from Brockville to Smith's Falls. Some years ago the county council abolished tolls along that portion of the road leading through Kitley on condition that the respective road districts through which it passes would keep it in repair. Elizabethtown would not agree to this, and there consequently remain two toll gates between Brockville and Unionville. There are two gates on the road leading from Unionville to Farmville the road being owned by a company of forty or fifty shareholders who continue the ownership in the hope that the county will buy them out. The road from Farmville to Westport was formerly a toll road, but tolls thereon were abolished some years ago.

In Grenville there are two toll roads, both in the township of Augusta. Tolls have been abolished on the Prescott and Kemptonville road, except the five miles in Augusta, the other is from Brockville to Prescott.

This is all the information the report of the legislative committee contains. None of the roads in those counties have made the return required by law, and no answer to our circular has been received.

Lennox and Addington.—The report of the legislative committee says, "All roads being formerly toll roads have been bought up by the county."

The report says of Addington "That toll roads formerly existed in many parts of the county but about twenty years ago the county assumed them and keeps them in repair."

The clerk of the county municipality writes, "Public opinion seems to be averse to toll roads. The county assumes certain leading roads, and maintains them at its own expense."

Lincoln.—The clerk writes that there are no toll roads in this county.

Mr. Garson stated to the legislative committee "We have parts of two roads. There is the Meritton stone road, about three miles long, under the control of the parties who owned the St. Catharines and Meritton street railway. There are one toll gate and one check gate on it within the limits of the county. The other is the Pelham stone road, about seven miles, owned by the city of St. Catharines. On this also are one toll gate and one check gate. The street railway runs the full length of the Meritton stone road to the county line."

Neither of these roads made the return required by the law.

Middlesex.—The clerk writes that there is one toll road in this county called the Proof Line road. It is sixteen miles in length. Thomas Farncombe is president and James Hamilton secretary. The first cost of the work was \$35,720.71; the total amount expended on the road is \$249,778.57; the receipts from tolls yearly is \$3,334.87. The tolls are all abolished in this county, except on this company road. The county roads are handed over to the municipalities through which they run, and are free.

Mr. Meredith, M.P.P., stated to the legislative committee that this road is seventeen miles long, and there are three tolls on it. It is a continuation of the Goderich road, and is a gravel road. It runs from the centre of the city of London to Lucan, about $1\frac{1}{2}$ miles of the road being in the city, and the first toll just at the city limits. All the other toll roads in the county were abolished six or seven years ago by the action of the county council, which levelled up by giving certain amounts to localities that had no toll roads. The Proof Line road did not send in the return required by law.

Norfolk.—The report of the legislative committee states that there are now no toll roads in this county. One which formerly existed was allowed to get out of repair, was condemned and abandoned by the company, and it is now kept up by statute labour. No reply to our circular was received from Norfolk.

Northumberland.—In the returns and in the statement submitted to the legislative committee a number of roads are described as being in Northumberland and Durham. There are in all four roads, but of these only that described as the Cobourg and Baltimore and that described as the Cobourg and Grafton sent in the returns required by law. We take, respecting these and the other roads, the statements sent by the clerk which agree substantially with those submitted to the legislative committee, and also in the case of the two roads named with the returns, except in the items stated below.

Cobourg and Grafton road, fifteen miles in length, three toll gates. The clerk sends the following statement made by Mr. Covert, governor of this road, for the year ending February 28th, 1886:—

Cost of Work.....	\$36,185 67
Total amount expended.....	36,185 67
Capital stock paid up.....	25,975 67
Amount of tolls during year.....	1,630 80
Dividends paid.....	1,298 74
Paid for repairs.....	358 17
Total amount of tolls expended on work.....	10,201 00

Cobourg and Baltimore road, five miles, one toll gate. The statement sent us respecting this road is made by Mr. Henry Hamilton Burnham, of Port Hope, one of the directors. It is for the year 1884. Some of the amounts, it will be observed are stated in pounds.

Cost of the work	£1,443
Total amount expended	1,448
Capital stock	1,000
Tolls expended	443
Receipts from all sources in 1884, including \$132.26 balance on hand	\$1,115 97
Dividends paid in 1884, 8 per cent. and 6 per cent. bonus.	
Expended on repairs in 1884	242 45

In the return made to the government last year, which is probably for 1885 or 1886, the total amount received from tolls and other sources is stated to be \$773.72, the amount paid in dividends to be \$300, and the amount paid for repairs \$254.50. This seems an extraordinary falling off.

Cobourg and Port Hope road, five miles, one toll gate. The following statement, dated February 22nd, 1884, was made by Mr. Charles Gifford, secretary-treasurer:—

Cost of the Work	\$19,600
Total amount expended	19,600
Capital stock all paid up	9,800
Tolls received during year	1,000
Dividend paid 60 cents per share, 490 shares of \$20 each	294
Expended in repairs during the year	200

Consolidated Port Hope road. The length of this road is not stated. We are told that "there is but one toll upon this road, but are not certain." The report for the year ending Nov. 30, 1886, is signed by the treasurer. It states:—

Cost of work	\$41,680 00
Total money expended	41,680 00
Capital stock paid up in full	41,680 00
Tolls expended	
Year's receipts for tolls	2,140 95
Dividends paid	843 40
Expended on repairs	667 58

A committee appointed in 1886 to ascertain the prices at which those roads could be purchased, reported that the prices asked were

Cobourg and Port Hope road	\$ 9,800
Cobourg and Grafton	24,000
Cobourg and Baltimore	4,000
Hope Consolidated	20,840
Total	\$58,640

They recommended that the idea of purchasing be not entertained, unless the minor municipalities in which the roads are located share the expense.

The clerk writes, "There is another road running north from Port Hope to the head of Rice Lake. It belongs to the town of Cobourg. It was bought from the Dominion thirty years ago, and \$22,000 paid for it. The distance is ten miles, two toll gates. I think there is another road in the township of Percy owned by the township."

Ontario.—The report of the legislative committee says, "There are now no toll roads in this (the south Riding), all such having been abandoned by the proprietors, and being now maintained by the municipalities."

The clerk writes, "There were two toll roads. The Whitby, Port Perry and Scugog, twenty-one miles, was built by the government and afterwards sold to a company who abandoned the road on the completion of the Whitby and Port Perry railroad. The Vaughan road was built by a company, was gravelled for seven miles, and the rest prepared for gravel. It was afterwards abandoned, the municipalities through which it runs paying a sum for such abandonment.

Oxford.—This county has nine toll roads of which six made, last year, the return required by law. The clerk of the county sent us the following tabulated statement:

Name of Road.	Length in miles.	Cost of road.	Received for tolls in 1886.	Dividends paid in 1886.	Expended in repairs in 1886.
Ingersoll and Thamesford G. R. Co.	5	£ 3,000	\$ 731 71	\$ 89 60	\$ 731 71
Durham and Ingersoll G. R. Co.	15	\$ 32,480	1,936 84	560 40	735 36
Woodstock and Ingersol G. R. Co.	21	Not stated.	2,687 04	1,350 00	1,845 00
Tilsonburg and Courtland G. R. Co.	5	10,000	904 38	600 00	92 87
Woodstock and Norwich G. R. Co.	9	18,828	704 08	4 00	429 97
Woodstock and Huron G. R.	5	3,400	796 00	Nil.	260 00
North Oxford and West Zorra G. R.	10	16,000	885 00	Nil.	300 00
Ingersoll and Northern G. R. Co.	5	7,360	537 27	183 80	1,602 38
Ingersoll and Port Burwell R. Co.	20	39,980	4,233 64	770 67	2,649 13

Of the Tilsonburg and Courtland there is only about one mile in the county, and of the Ingersoll and Port Burwell only seventeen miles. The clerk sends also the names of the presidents or of the secretaries of the companies, or both. He gives the name of Miss M. Matheson, Embro, as the president of the Woodstock and Ingersoll road. The official return states that "this road is not owned by a joint stock company, and that its cost is unknown. It states also that this road was originally built by the Government. The other roads for which returns have been made are the Woodstock and Norwich, described as plank and gravel, capital stock, \$14,400; Woodstock and Huron, capital stock, \$4,425; Ingersoll and Port Burwell, capital stock, \$39,980; the Tilsonburg and Courtland, capital stock \$10,000; and the North Oxford and West Zorra, capital stock \$16,000. The dividends paid by all these roads, except one or two, are very small.

Parry Sound.—The legislative committee state that there never has been a toll road in this district.

Peel.—Mr. Chisholm, M.P.P., stated to the legislative committee that this county has two toll roads, one eight miles long, which is a continuation of the York road, is owned by the county of York, and has two toll gates. The other, three miles long, with one toll gate belongs to a private individual.

The clerk writes that he believes there is one toll road known as Dundas street, owned by the municipality of the township of Toronto.

Perth.—The clerk writes that "there is now no toll road in this county. There was one called the Fojev road which cost \$2,000 per mile; the expense of maintenance is \$50 per mile. An inspector has charge of the principal roads forming boundary lines. He directs what repairs shall be made; the work is let by contract. The county pays the contractors and charges the amount to the municipalities of which the roads are the boundaries. This was rendered necessary because the municipalities neglected the roads. Public opinion is against toll roads."

Peterborough.—The clerk states that there are no toll roads in this county.

Prescott.—The clerk of Prescott and Russell writes that there are no toll roads in this district. (See Russell.)

Prince Edward.—The clerk states that this county “never had any toll gates.” So the legislative committee also report.

Renfrew.—This county, the clerk states, has no toll roads.

Russell.—The legislative committee’s report says, “There are three toll roads in this county. The Montreal road, ten miles long, with two toll gates; the Russell road, ten miles long, with two toll gates; the Gloucester and Osgoode road, with four toll gates.” At least one of these appears to be a road described in the Statutory return as being in the county of Russell.

Simcoe.—The clerk states that there are no toll roads in this county. The legislative committee make a similar statement.

Stormont.—The report of the legislative committee says, “There are no toll roads in this district. About ten years ago the town of Cornwall had a toll road, which it put into good repair and gave over to the township free from tolls. (See Dundas.)

Victoria.—The legislative committee report that there never were any toll roads in this county. The clerk makes the same statement.

Waterloo.—We have not obtained any information respecting Waterloo.

Welland.—The clerk thinks that there is no toll road in this county.

Wellington.—The clerk writes, “A good many years ago there were several joint stock road companies in this county and tolls were collected. The county council purchased the roads and collected tolls for a few years, but the gates were ultimately taken off, and the roads have been free for many years. The county council grants annually about \$50 per mile for the maintenance of the county gravel roads.

The report of the legislative committee says: “The council owns over 150 miles of gravel roads, acquired partly by purchase from joint stock companies and partly by assumption and construction. Tolls were abolished by the action of the county council ten or twelve years ago.

Wentworth.—A statement submitted to the legislative committee shows that there are nine toll roads in Wentworth. The names and length of eight of those and the valuation set on each by a committee of the county council are stated as follows:—

Name.	Length.	Value.
Hamilton and Stoney Creek	9 miles	\$31,000
Main Street	2 “	7,500
Barton Street	4 “	7,500
Waterdown and Port Flamboro	2½ “	3,000
Hamilton and Flamboro	15 “	50,000
Hamilton and Nelson	4½ “	17,447
Barton and Glanford	14 “	21,000
Sydenham	1½ “	2,000
Total	51½ miles	\$139,447

Another road called the Hamilton and Brantford is owned by the township of Ancaster, which refuses to place a valuation upon it, claiming that it is a source of revenue to the township.

The clerk reports that there are fourteen roads in this county of an aggregate length of 109½ miles, including the short distance for which one of the roads extends into Halton and another into Waterloo. The return sent by the clerk contains so much useful information that it may be well to give it in full.

INFORMATION RESPECTING THE TOLL ROADS IN THE COUNTY OF WENTWORTH.

Name of Road.	Owner.	Length. Miles.	Original Cost. \$	Revenue. \$	Expenditure. \$	Net Revenue. \$	Remarks.
Hamilton and Stoney Creek Road.....	A. E. Carpenter, Hamilton.....	8	36,000	3,939	1,361	2,578	Revenue, expenditure, and net revenue are those of the year 1886.
Barton Gravel Road.....	Barton Road Co., A. E. Carpenter, President; A. E. Carpenter, jr., Sec'y.....	2	5,000	1,183	413	770	do
Hamilton and Saltfleet Road.....	Hamilton and Saltfleet Road Co., A. E. Carpenter, jr., Sec'y, Hamilton.....	4	7,500	1,779	559	1,220	do
Hamilton and Flamboro Road.....	Hamilton and Milton Road Co., Miles O'Reilly, Pres.; J. N. Waddell, Sec'y.....	14	.....	6,362	1,085	5,277	Revenue, etc., are those of the year 1885.
Hamilton and Nelson Road.....	Hamilton and Nelson Road Co., Oliver Springer, President.....	6½	.....	2,008	1,574	434	do
Waterdown & Port Flamboro Road.....	Waterdown and Port Flamboro Road Co., A. W. Brown, Treas., Aldershot.....	2½	.....	512	431	81	Small portion of the road is in Halton.
Barton and Glanford Road.....	Barton and Glanford Road Co., A. E. Carpenter, Pres.; J. N. Waddell, Sec'y.....	12½	.....	4,038	1,394	2,644	Revenue, etc., are those of the year 1885.
Hamilton and Ancaster Road.....	Township of Ancaster.....	14	21,600	3,901	3,027	874	do
Dundas and Waterloo Road.....	Dr. A. H. Walker, Dundas.....	19½	.....	4,120	918	3,202	do
Sydenham Road.....	do do.....	1½	.....	1,028	1,755	.....	{ Revenue, expenditure, and net revenue are those of the year 1883.
Guelph and Dundas Road.....	County of Wentworth.....	14	22,943	1,422	405	1,017	{ About 3 miles of the road is in Waterloo.
Dundas and Binkley Road.....	do do.....	1½	8,000	643	752	.....	Revenue, etc., are those of the year 1886.
Governor's Road.....	do do.....	5	7,000	250	515	.....	do
Saltfleet Road.....	do do.....	5	.....	.....	.....	.....	do

COUNTY CLERK'S OFFICE, }
HAMILTON, January 24th, 1888. }
G. S. COUNSELL,
Clerk Co. Wentworth.

Of all these roads only the Barton road and the Hamilton and Saltfleet road made the return required by law. These returns agree substantially with the statement made by the clerk. The Hamilton and Stoney Creek road made an imperfect return, which was sent back for completion.

York.—The report of the legislative committee says, “The toll roads in York are as follows:—York roads fifty miles, York and Vaughan, thirteen miles, and York and Davenport road three miles long. York roads belong to the county.

The clerk states that the York roads are about fifty-eight miles in length, that the county paid \$72,500 for them, and the net revenue is \$3,905.34. The Weston road, owned by a company, is about seven miles in length and cost \$14,000. The net revenue is \$924.54. The Holland River road, owned by a company, is four miles in length and cost \$4,000. The net revenue is \$640. The Davenport and the York and Vaughan roads, he says, made no return.

The Holland River road made the return required by statute. According to that the capital stock of the company is \$4,000, but the road cost \$11,890. The difference corresponds exactly with the amount stated as “Tolls expended.” The total amount received as tolls was \$937, the amount paid in debentures was \$640, and the amount expended in repairs was \$315.21.

The Weston road company, in their return state the capital of the company is \$14,016, the cost of the road \$14,000. The amount received from tolls, etc., during the year \$2,094.22, the amount paid as dividends \$840.96, and expended in repairs \$1,253.26. The other two companies made no return.

The amounts given as the total cost of these roads which have made the statutory return appear to be made up, in nearly every case, of the first cost, and the amounts expended from year to year in repairs, and therefore they afford no basis for calculating the present value of any of these roads.

In many cases the proportion of the total receipts expended on the repairs of the roads seems very small. Where this system has been followed for even a few years the roads must necessarily be in a bad condition.

The tolls of the Woodstock and Ingersoll road amounted to \$2,687, and \$1,845 was expended on the road. Part of this must have come from a reserve fund as \$1,350 was paid in dividends. The receipts of the Ingersoll and Port Burwell road were \$4,233.64. The dividends paid were \$770.67, and the repairs cost \$2,649.13. A large balance is not accounted for.

The receipts of the Bytown and Nepean road were \$5,390.80. The amount paid in dividends was \$660, and repairs cost \$2,245.89. This leaves a sum of over \$2,400 not accounted for.

The receipts of the Ottawa and Gloucester road were \$8,335. The dividends paid amounted to \$4,471.60, on a capital stock of \$63,880. The amount expended in repairs was \$2,887.94. About a thousand dollars remains not accounted for.

In only one instance does a return state exactly the cost of collecting the tolls. On the Woodstock and Ingersoll road it cost \$576 to collect \$2,687.04. The Barton Road Company state that they expended on repairs and in payment of gate-keeper \$412.58, the total receipts being \$1,183.49. This must mean that very little was expended on repairs.

The Hamilton and Saltfleet road made a similar return. Its gross receipts were \$1,779.46, and the cost of repairs and of collecting tolls amounted to \$559.35. It may be that in several other cases the cost of collection is included in the amount placed under the heading, paid for repairs.

There may be several toll roads in the Province of which we have not been able to learn anything. The absolute abolition of tolls on any day in the near future would cause all to be heard from, whose proprietors suppose that under such circumstances they would be entitled to compensation.

THE LOCAL ADMINISTRATION OF CRIMINAL JUSTICE.

In addition to the collection of information relating to the municipal institutions of this Province, we are directed by our commission "to make enquiries with reference to and report on the local machinery in use, or necessary, to secure the due administration of criminal justice."

In entering on this part of our duties, we were met with a two-fold difficulty. First, the absence of any works on the subject, and our inability to procure much information from any other source; and, secondly, the fact that there is no regularly organized system in this country respecting the management and working of a police body, except, perhaps, in the principal cities. The conditions of this country and the general requirements of the administration of police justice are so different from those of England, or any of the other old and populous nations, that no analogy can reasonably be made, and what might be of a most beneficial character there, would, in many instances, be manifestly unsuited to a province such as ours, with its wide extent of territory, its comparatively small population, and the absence of large centres which, more than anything else, afford the means of localizing crime and render its discovery more a question of well organized, systematic police watchfulness than of individual effort on the part of constables. In some of the older countries, a national system of constabulary is in existence. The wisdom of this has often been questioned, and without entering into the merits of this form of police authority, we may be permitted to state that, in our opinion, the reasons for such a system do not exist here. Happily, we live in a country where there are no great conflicting elements at war with each other. There are no uprisings of the people requiring the strong arm of the law to suppress. Public sentiment is more inclined to peaceable and conciliatory measures than to physical resistance, and whether the law is considered good or bad in any particular case, it is rarely opposed, and then only in individual instances rather than by any national or general action on the part of the people, who prefer to seek a remedy by what are known as constitutional means and by securing such necessary remedial legislation as may be deemed expedient.

There is another point in this connection to which we wish to call attention. To import into this country a provincial or national system of constabulary would involve a very large yearly expenditure wholly out of proportion to the small amount of crime to be dealt with. Instead of remaining stationary, this expenditure would naturally increase, and in time would reach a point beyond the financial resources of the Government, and, if distributed amongst the different municipalities, would create heavy burdens on the people. To ask the Province to bear this outlay would be unfair to dozens of municipalities where crime is wholly unknown, and to put the municipalities to the expense of maintaining a standing constabulary would involve a very serious responsibility. It does not appear to us that any such police force is required in Ontario. In many counties, the greater part of the work of our Justices of the Peace and Police Magistrates is confined, we are glad to say, to cases of violation of municipal laws and regulations, and these are not of a sufficiently serious character to warrant their removal from the hands of the local authorities. Another considerable portion of the duties of justices is confined to the administration of the license Act and of other laws of a similar character, none of which can, strictly speaking, be called criminal. So far, therefore, as the enforcement of these and other regulations of a purely municipal nature for the protection of the public morals are concerned, there is little or no ground for complaint, and we have not attempted to deal with this branch of the subject, feeling convinced that no suggestions could be made by us which would in any degree add to the harmonious, simple, and effective working of the present machinery in this respect.

Turning to the real question, namely, what is the condition of the local machinery now in existence in this Province for the enforcement of purely criminal laws, we cannot but express our earnest opinion that in many instances, the means for the detection of crime are not as efficient as they ought to be. When an offender is discovered and caught, his punishment is sure to follow, if the proof of his crime is sufficient. The acting magistrates throughout the province perform their duty, we believe, thoroughly and impartially,

and appear to have a desire to mete out to the criminal his just reward. The extensive powers now possessed by Police Magistrates and County Judges sitting without a jury greatly tend to facilitate the punishment of crime, and make the administration of criminal justice a speedy and inexpensive matter as compared to the state of this branch of the law a few years ago. But whilst immense strides towards perfection have been made in the trial of prisoners and the enforcement of their sentences when convicted, the equally important matter of what is the best means for the detection of crime and the apprehension of wrong-doers has been, to a large extent, allowed to remain as it was.

If the provisions of the law of this Province relating to the appointment of constables were carefully carried out, and if only the best men were selected to act in that capacity, perhaps there would not be so much room for criticism. We find, however, that men are frequently appointed to the onerous and responsible position of peace officers who have neither the experience nor the special natural requisites necessary to success. Many of them have not the time to devote to the duties of their office which they should have, and their remuneration is so small, and in numerous cases, so uncertain, that even if they had the requisite time, it would not pay them to engage in the arduous and often lengthy task of investigating facts and procuring evidence necessary to discover guilt, nor to pursue the parties against whom the evidence, when discovered, is directed. That the detection of criminals is the most important part of the administration of criminal justice is too patent to admit of argument. No matter how perfect our courts of law may be, it is manifest that their usefulness may be practically annulled if our police system is defective. The prompt and almost certain arrest of men who commit crime is of as grave consequence to the community and to the safety and good order of society as the certain punishment of such men when brought before the courts for trial, and we are convinced that sure detection would do more to prevent the commission of offences than the best system of remedial punishment can possibly accomplish, notwithstanding the care and wisdom which characterize the judgments of those in authority in dealing with the penalties attached to guilt. A serious responsibility, therefore, rests upon those to whom is entrusted the appointment of constables and other peace officers, and the selection and control of these men should be marked with the utmost care and discretion.

The absence of some general head or central authority is very noticeable in our present police management. In places where there is no Board of Police Commissioners, constables are generally appointed by magistrates or at the General Sessions. They perform the functions of their office largely in their own discretion. There is no superior police officer to whom they can look for guidance or instruction. They are not subject to the same direct authority as magistrates are, nor are they held responsible for the proper performance of their many duties as they should be, for the simple reason that there is no one in whom are vested the personal authority and obligations of an inspector. We are now referring to the rural constabulary generally, and not in any way imputing inefficiency to them individually, but pointing out the defects which we conceive to be in the system more than in the members who comprise what may be known as the county constables of this Province. A county judge, as chairman of the General Sessions, has no direct official duty cast upon him to inspect, manage, or generally direct the different constables within his own county. The magistrate cannot reasonably be expected to constitute himself a tribunal of enquiry or an authority over the actions of the peace officers in his district, and we are not aware that any remuneration is provided, even if he assumed to act in the premises. In most cases, it is not likely that either the judge or the magistrate is possessed of any special training or experience which would make his advice of any practical value in regard to the duties of constables, nor does it appear, except in case of gross dereliction of duty, that either of the officials named ever interferes with the mode in which a constable performs his duties. Whilst it is the bounden duty of a justice of the peace to see that the law is not openly set at defiance and the well-being of society endangered, it is not, in practice at any rate, his obligation to act as a supervisor of constables in so far as their mode of work and the means employed for the discovery of crime are concerned. It is a sound principle that a magistrate shall not act the part of a prosecutor or detective, but shall confine himself to the due administration of the law in a just and impartial manner as applied to the cases brought before

him for investigation or adjudication. He is not to make the cases, but to deal with them when presented through the instrumentality of the police officer. On the whole, it is, therefore, a safer and wiser course for the magistrate to hold himself free from the pursuit of criminals and the ordinary means used for the detection of guilt, lest it might be urged against him that his judgment was based on circumstances and suspicions not founded on sworn testimony.

Keeping in view the exigencies of the public welfare, and having a due regard for economy, we are of opinion that all the constables, not subject to the control of a board of police commissioners, should be placed under the authority of a chief officer who might be named provincial inspector of police. His duties would be to advise and assist local peace officers, to watch over their actions, to report on their efficiency or the reverse, to make all necessary investigations regarding complaints against them, to suspend for the time being any officer found to be negligent in the performance of his duty or guilty of misconduct; to incur, with the consent of the magistrate seized of the case or the County Crown Attorney, such reasonable expense as might be found necessary for the detection of offences and the arrest of the offenders, and generally to aid in the due administration of criminal justice throughout the Province as distinguished from matters of a municipal character. This would not, by any means, be as expensive or as laborious a duty as may appear at first impression. The more complicated and serious offences are now investigated to a great extent by the two Provincial officers permanently employed by the government. Their work is provincial in its scope and object. Such crimes as murder, arson, and other high offences of that nature are investigated by them where the local authorities consider it proper to call for their assistance, and the government deem it to be in the public interest that they should make the necessary enquiries. In cases, too, where a series of larcenies or burglaries have taken place, and are supposed to be the work of professional evil-doers preying upon the public, it has been found absolutely necessary to employ government detectives possessing authority in all parts of the Province. But there are many cases which could be very properly and efficiently investigated by the local authorities with the aid of such an officer as we have indicated and which, we fear, are not now met with that decisive action which the circumstances warrant, for the reason that no thorough system of detection exists, no proper control is exercised over the local constables, no means of properly paying them their necessary disbursements are provided, and sufficient authority is not conferred upon them to enable them to pursue the criminal beyond certain limits.

Judging by the records of crime in this Province, and taking into account the class of offences which would come within the scope of an inspector's duty, we think that one good, active and efficient officer all that is required. His salary and expenses would be borne by the Province, and his reports should be made to the Lieutenant-Governor in Council, who would have the right to discharge any constable on sufficient reasons appearing for such action being taken, just as the commissions of magistrates and other public officers of that character are liable to be revoked. The present Provincial staff, not including the constables on duty along the frontier of the United States, is composed of but two officers. Special officers have frequently to be employed to meet the demands for police assistance made upon the government, and the expense would not be materially increased if another permanent officer were appointed. One of the three members could then be designated as the inspector of the rural constables, and his duties might include the investigation of many of the criminal cases now enquired into at the instance of the government when not otherwise occupied with his strictly official duties of inspection.

In considering the authority of constables, we are aware that the power of executing warrants for arrest is derived from Dominion legislation, but we cannot permit this essential element to pass without calling attention to the necessity for some amendment of the existing law in this respect. The provision requiring warrants for arrest in an outer county at places beyond the limit now prescribed by statute, to be backed by a magistrate for such outer county, is an injury instead of a benefit or protection. Delay is occasioned, and very often difficulties present themselves which are not easily overcome by reason of this meaningless and unnecessary requirement; and delay in the

execution of a warrant for arrest constitutes the great safety of the criminal. A warrant issued by a magistrate having competent jurisdiction to issue the same, and placed in the hands of a peace officer for execution, ought to be valid in any part of the Province, and the officer having such warrant ought not to be hampered and frequently rendered helpless by the condition as to backing by some other justice, whose act can give no virtue to the warrant, and whose duty in this respect is purely ministerial.

It is not intended by this suggestion to make every county or village constable a provincial officer. His authority to pursue and arrest a criminal anywhere in Ontario would be confined to cases actually arising in his own county or municipality, and the expense attendant upon such pursuit and arrest ought to be incurred only on the authority of the magistrate issuing the warrant. Some check of this kind would be necessary, and we think that, considering the high character of our magistracy, no abuse would occur if this power were vested in them, subject, perhaps, to the approval of the inspector of police as an additional safeguard. As the law now stands, and owing to the uncertainty of the remuneration and re-payment of the necessary expenses, a constable will not venture beyond the narrow limits of his own district. If he does, he finds himself without authority to act unless he goes before some other magistrate and makes the required affidavit as to the genuineness of the signature to the warrant, and procures the endorsement; and what is of vital interest to himself, he may not be recouped his expenses or paid for his services. We respectfully suggest that the attention of the Dominion Parliament be called to this state of things as regards the backing of warrants and the authority of constables to execute same, believing that if the law were amended in accordance with the above, the result would show that one great obstacle had been removed from the not always pleasant path of the police officer.

Another serious question is the proper remuneration of constables. That they are not paid according to the work done or in proportion to the character of the duties they are called upon to perform, is too apparent. To illustrate: suppose a constable is required to travel five miles to effect service of a summons. The fees would be fifty cents for mileage, and twenty-five cents for service, in all, seventy-five cents. To do this, he is compelled to hire a conveyance; this costs him at the lowest estimate, \$1.50. He is consequently out of pocket 75 cents by the transaction. If he does not succeed in effecting service, he gets mileage only, and even this is conditional upon the fact that he convinces the board of audit that he used due diligence. He loses, perhaps, a whole day besides the actual pecuniary loss above mentioned. This is no uncommon occurrence. If an arrest has to be made, he gets for making the arrest and for his responsibility in safely delivering over to the proper authorities the person arrested, the sum of \$1.50, which, with his mileage in the case in point, would make \$2.00. He is therefore called upon to perform an important and unpleasant duty, to run certain risks, to lose a day's time, and receives only 50 cents actual remuneration, and may be compelled to wait months for payment! If he travels by rail, the following case will show the fees received: A warrant is issued in some part of the county of Wellington five miles from a railway station. Assuming that it costs one dollar for a conveyance each way to and from the railway at Guelph for instance, the fare to Toronto and return would be \$2.50. If the person named in the warrant is in Toronto, in all probability two days are consumed in getting the necessary indorsement on the warrant, in ascertaining the whereabouts of the offender, and in making the arrest. Hotel and other necessary expenses would not be less here than \$2 per day. This would make in all \$8.50. Against this the constable receives mileage, \$5.50, and making the arrest \$1.50, in all \$7, causing him a loss of \$1.50 in cash and two days' time. If he failed to make the arrest, he finds himself actually out of pocket \$3. Or assuming that only one day is consumed and the arrest is made, he would earn 50 cents as a compensation for all his trouble, time and vigilance. Cases of this sort could be multiplied indefinitely, and in no instance would it be found that the position of the constable is any better than it is in the illustrations given above.

Another instance of the imperfect provision made for the remuneration of constables arises in this way. On a crime being committed in a rural district some distance from the residence of the county crown attorney, a constable is informed of the facts and is expected to make the necessary investigation. He spends several days in tracing up the

crime to the guilty party, and succeeds in making the arrest. For these services he can claim no reward as of right. His payment depends on the action of the county crown attorney and the warden of the county, who may, if they see fit, withhold the necessary authority for payment, and the constable, not having the warrant at the time of the arrest, although a serious felony has been committed, is practically without a remedy. The Act passed by the Ontario Legislature for the purpose of aiding in the detection of crime, whereby the warden of the county and the county crown attorney may engage special services and make provision for their payment, was a step in the right direction, but it is too often the case that owing to somewhat strict ideas of economy, and the hope that the government will assume the expense of sending one of their own officers, the Act is not taken advantage of in the liberal manner which one would expect, and in many counties, the warden and county attorney live so far apart that prompt action is impossible, and action of any kind is thereby so long delayed that attempts to reach the offenders are found to be useless.

Whilst this condition of affairs exists it cannot be expected that an efficient country constabulary can possibly be maintained, and we respectfully suggest that some more liberal and satisfactory system of remuneration be adopted.

The delay caused by the present mode of audit of criminal justice accounts is also worthy of notice. A constable is required to fill up a somewhat complicated schedule shewing all the details of his account for services performed. This comes before the county board of audit, which may not meet for nearly three months from the rendering of the account. Some objection is taken to the propriety of the county assuming the payment, and it is referred to the government auditor, who has charge of this class of accounts. By the time his decision can be acted upon, the board has adjourned, and three months more must elapse before the constable can get even his expenses. As a rule, constables are not wealthy men, and it is manifestly unfair that they should be compelled to wait month after month for the payment of their small allowances, and perhaps in the end find that they are not legally entitled to any compensation whatever. All such accounts ought to be promptly paid on the certificate of the county crown attorney and county judge or proposed inspector, when the same are payable by the county, and those payable by the Province should be paid upon being presented to the government auditor and accompanied by the certificate of such inspector.

We make these suggestions with a view to render the working of our country constabulary more efficient, and not with the intention of making their remuneration an expensive matter to the counties or to the Province.

If this or some similar scheme be adopted, and the amendments we have indicated be made law, there is every reason to hope that the country constables would soon number amongst their members, many officers who would do credit to the most efficient and best organized police systems of the large cities of Canada or the United States.

TORONTO POLICE MAGISTRACY.

The general condition of the Police Magistracy throughout the Province appears to be highly satisfactory. In places outside of Toronto, the duties are not so great as to be beyond the power of one police magistrate in each locality. The salaries attached to the office are moderately commensurate with the amount of work to be performed. The working of the present system is, on the whole, admirable, and owing to the greatly increased jurisdiction of these officers, together with the like increase in the powers of County Court Judges sitting without a jury, the counties are saved much unnecessary expense, prisoners obtain speedy trials, and the Courts of Oyer and Terminer are relieved

of a large class of criminal cases which otherwise would come before them. Owing to this fact, criminal calendars at our different Assize Courts have been remarkably light during the past few years, and we have heard of no injustice having been done under the present system of disposing of criminal cases. No suggestions, therefore, occur to us with regard to any change in the working of our general Police Magistracy.

We desire, however, to call attention to Toronto as being exceptional, not with reference to the administration of the law, but to the immense volume of work performed by the city police magistrate. The wonderful growth of this city during the past ten years, the central and important position which it occupies in this Province, and the easy and numerous modes of communication it has with all parts of Canada and the adjoining States, make it more or less a resort for criminals of all classes. Professional burglars, crooks, confidence operators and others of that nature frequently come here from the large cities in the northern parts of the United States and contribute largely to the increase of crime in our midst. But the elements of crime are not wanting in certain classes of our own population. Petty larcenies are of common occurrence. House-breaking is an offence which we see reported in almost every day's newspaper. Forgeries have, of late, unfortunately increased to an alarming extent, and occasionally even more serious crimes are perpetrated. This is, of course, to be expected in a large city, and without entering into the causes of this condition of things, we cannot shut our eyes to the fact that as the city grows in importance and increases in area and population, crime is not likely to be lessened to any material extent.

In saying this we do not wish to be understood as intimating that Toronto is an immoral city. Statistics show that Toronto compares most favorably with other populous Canadian and American cities, but it is an admitted fact that a wealthy, densely populated, commercial city like this affords opportunities for crime and a certain safety to the criminal class which cannot be obtained elsewhere. The result is that the duties of the police magistrate here have increased enormously and are now quite beyond the grasp or administration of one official. A certain amount of time must necessarily be devoted to each case, however trivial, and the greatest care ought to be exercised in dealing with criminal prosecutions lest the innocent be punished and the guilty escape. Taking the records of the Toronto Police Court for the past few years, it may conclusively be shown that one police magistrate is not sufficient to deal properly with the vast number of cases brought into his court. This is not said because of any complaints concerning his administration of the law. We have heard of no complaints, nor do we believe they exist. The present incumbent receives commendations from all sides for the faithful performance of his duties, and it is surprising, when all the circumstances are considered, how well the business is conducted in the police court here and what an immense volume of work is disposed of by him. We believe, however, that the efficiency of this court would be much enhanced by the appointment of a competent assistant, whose duty would be to dispose of all the less serious offences, such as drunkenness, disorderly conduct, violations of ordinary municipal by-laws, and such matters of a like nature as are continually arising, leaving the graver offences to be dealt with by the present incumbent, who would thus become the senior officer in point of jurisdiction. This arrangement, we feel satisfied, would add materially to the usefulness of the police court as a cheap, prompt, and simple means of investigating and punishing offences against the criminal law. Greater care could thus be given to the cases, a more thorough investigation of each charge could be made, and that serious and painstaking consideration of complex and intricate points of law and evidence could be exercised, which, under existing circumstances, it is impossible to give and would be unreasonable to expect.

The strongest argument in support of the suggestion made by us for the appointment of an assistant Police Magistrate, is founded on the following tabulated statements showing the volume of business actually done in the Police Court. In order to ascertain what is the relative amount of work done here as compared to that performed in other cities, we caused communication to be had with the undermentioned places, and the figures which are given are those received from the officials of such places in reply to our enquiries.

The returns are for the year 1887, and are for cases actually tried or disposed of, and do not include remands :—

PLACE.	Number of cases tried.	Number of Judges or Police Justices.	Average to each Judge or Justice.
Chicago (10 months).....	39,285	7	5,612
Buffalo (10 months).....	9,202	4	2,300
Detroit (10 months).....	7,123	2	3,562
Montreal.....	9,843*	3	3,281
Milwaukee	4,332	1	4,332
Cleveland	3,588	1	3,588
Philadelphia	58,000*	28	2,071
Baltimore	29,538	7	4,220
Toronto.....	10,597	1	10,597

It will be seen from these statistics that the number of cases tried and investigated by the Toronto Police Magistrate is more than double the average number disposed of by each of the Judges or Police Justices of any other city above named, and, in several cases, more than four times the amount. In addition to this, there must be added remands from time to time, which amounted last year to over 5,000, making in all over 15,000 cases including the remands. It is true that many of these remands are not at the time investigated, or if so, are only partially heard; but even remands require time and attention, and it is most important that defendants or prisoners should not be put to the expense and delay of having their cases remanded unless there is good ground for so doing. A careful discretion ought always to be exercised by a Police Magistrate in remanding prisoners, as the mere fact of a remand in certain cases, often creates an impression on the public mind that the person charged is more or less guilty, besides often causing exceedingly great inconvenience in procuring bail, the not obtaining of which, frequently means a week in gaol.

In order to ascertain the amount of one day's work at the Police Court, the Police Magistrate was asked to give his record for Monday, the 6th day of February, the date being casually selected. On that day, as appears by the records of the Court, he had before him 23 indictable offences and 79 miscellaneous cases. The number of witnesses examined was 47. The sum of \$245 in cash was received, 40 fines were imposed, and the liability of those committed in default of payment was represented by \$105. Every day is not perhaps so specially marked, but we are assured that the above is no uncommon result, except on Saturdays, which are kept as free from business as circumstances will permit.

The following statement, received from the Clerk of the Court, shows the monthly record and daily average for the period therein named.

* Approximate.

STATEMENT of number of cases tried at the Toronto Police Court during the following periods, including remands.

Year.	Months.	Number of days.	Number of cases tried.	Daily average, except Saturday.	Saturday's average.
1886	August.....	25	1018	45	19
"	September	26	1291	56	17
"	October.....	26	1016	44	18
"	November.....	25	1169	52	21
"	December	25	1082	48	12
1887	January.....	25	894	40	13
"	February.....	24	845	39	16
"	March	27	1095	45	14
"	April	24	1111	53	23
"	May.....	25	1151	50	24
"	June.....	24	1038	47	23
"	July	24	1437	66	36
"	August.....	26	1634	70	26
"	September	26	1784	71	30
"	October	26	1964	88	27
"	November	25	1553	62	18
"	December	26	1216	47	19

The above statement includes remands and preliminary investigations as well as cases actually and finally tried and disposed of.

The following statement shows the number of cases actually tried and finally disposed of monthly by the Police Magistrate in the Police Court, Toronto, for the year 1887, not including remands:—

January.....	627	July.....	983
February.....	586	August.....	1,074
March.....	672	September	1,092
April	774	October.....	1,352
May.....	780	November.....	1,076
June.....	787	December.....	794

Total..... 10,597

These figures show that the work done by the Toronto Police Magistrate is more than the average calendar at Bow Street Police Court, London, England, where *two* police magistrates sit alternately, each working three days per week, and where the jurisdiction is much more limited. It may be noticed here that the jurisdiction of the American criminal judges and police justices in the inferior courts of first instance, is somewhat similar to that of our police magistrates, and in some cases, our police courts, on the consent of the parties accused, have a more extensive jurisdiction than is possessed in many of the States of the Union.

STATEMENT of fines and fees imposed and received :—

The total amount of fines and fees paid directly by the Police Court into the city of Toronto Treasury, in the year 1887, was	\$10,013 25
The amount of fines and fees collected at the gaol on Police Court convictions and paid into the City Treasury, in the same year, was	3,220 65
Making a total of	<u>\$13,233 90</u>

In addition to this, there are the fines derived from the prosecutions in the Police Court for violations of the Liquor License Act and paid to the License Inspector, amounting, we are informed, to \$7,000 or thereabouts, making a grand yearly total of money actually derived from the administration of the law by one officer, of \$20,000.

The total amount of fines and fees imposed by Police Court convictions for the year 1887, was as follows :—

Total fines imposed, including those under License Act.	\$19,822 47
Total fees imposed.....	<u>12,709 90</u>

In all	\$32,532 37
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The officials engaged in the business of the disposal of cases besides the Police Magistrate and the necessary attendant constables, are the clerk and two assistants. These officers need not be increased by the appointment of another magistrate.

The following shows the relative increase of work during the past four years, being the cases actually tried (remands not included) :—

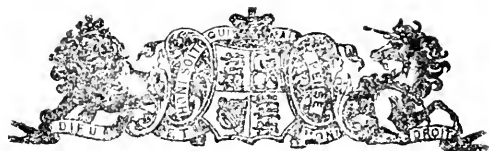
Cases tried during the year 1884	7,308
“ “ “ 1885	7,954
“ “ “ 1886	8,570
“ “ “ 1887	10,597

In view of the above facts, we would respectfully suggest that an Assistant Police Magistrate be appointed for the city of Toronto.

SECOND REPORT
OF
THE COMMISSION
ON
MUNICIPAL INSTITUTIONS

APPOINTED BY THE GOVERNMENT OF THE PROVINCE OF
ONTARIO.

PRINTED BY ORDER OF THE LEGISLATIVE ASSEMBLY.



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1889.



SECOND REPORT

OF THE

MUNICIPAL COMMISSION.

TORONTO, December 20th, 1888.

To the Honourable

SIR ALEXANDER CAMPBELL, K.C.M.G.,

Lieutenant-Governor of the Province of Ontario.

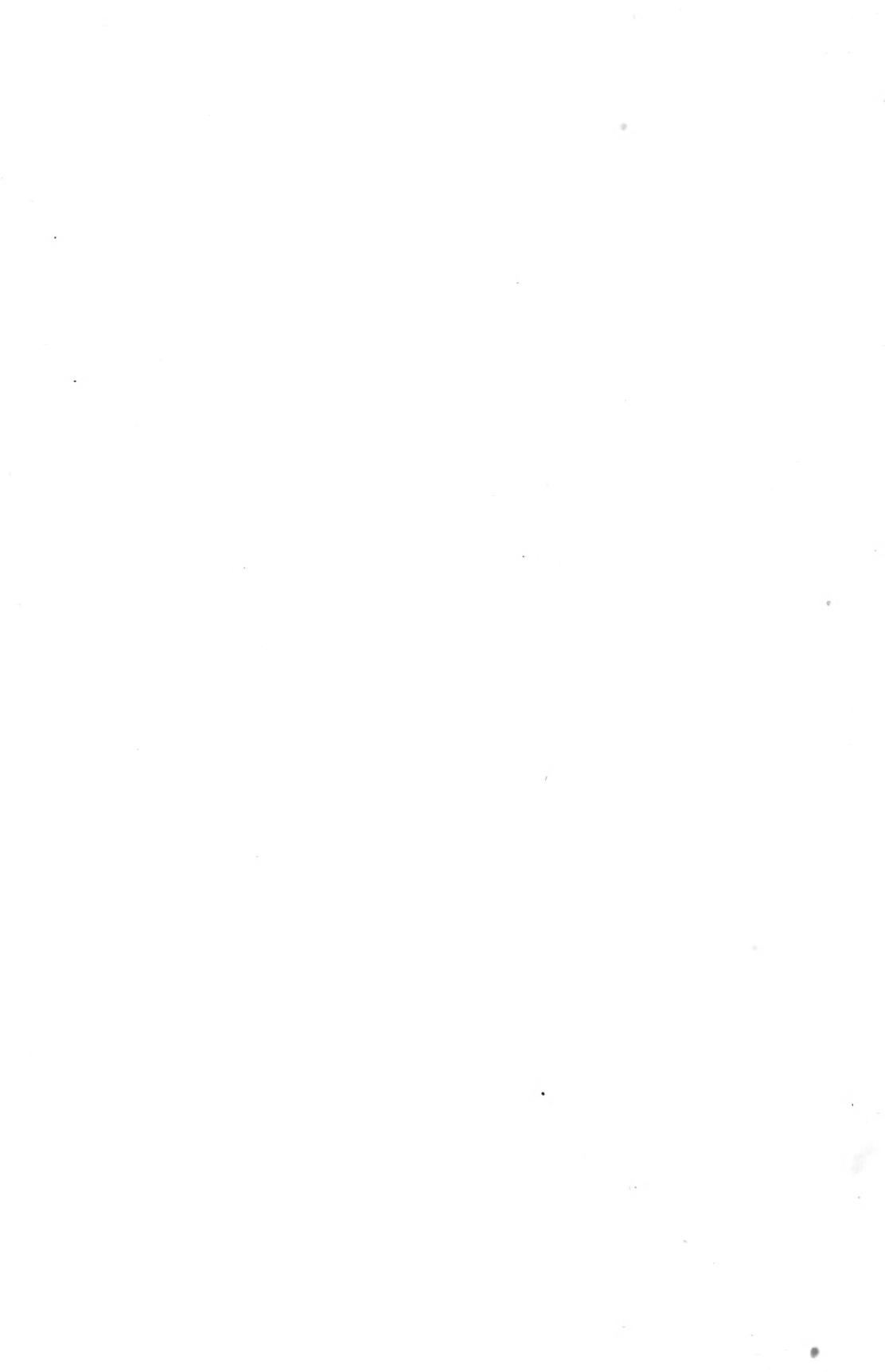
MAY IT PLEASE YOUR HONOUR:—

We, the undersigned Commissioners, appointed by Commission under the Great Seal of the Province, bearing date the ninth day of December, A.D. 1887, to collect information and report with reference to certain municipal and other matters therein set forth, beg leave to submit herewith our second Report, pursuant to the directions of our said Commission.

We have the honour to be,

Your Honour's obedient servants,

T. W. ANGLIN,
E. F. B. JOHNSTON, } *Commissioners.*
WM. HOUSTON,



REPORT.

In our first report, dated March 16th, 1888, we endeavored, as well as the time and means at our disposal would allow, to place before the Legislature and Government of the Province accurate and detailed information respecting the nature and working of municipal institutions in other countries. Our inquiries covered Great Britain and Ireland, Germany, France, the United States of America, and the Canadian Provinces of Quebec, New Brunswick, Nova Scotia, and Prince Edward Island. We dealt also to some extent with municipal institutions in Ontario, taking the opinions of many experts on their working and alleged defects.

In the course of our investigation of the Ontario system we were forced to the conclusion that that system "is now one of the best in the world," and that "it will continue to be one of the best if from time to time we make those changes, and only those, which the most deliberate consideration shows to be necessary or desirable." To facilitate such consideration by affording a comprehensive view of the progress of the Ontario system we have made a thorough search of the Statutes and Parliamentary Proceedings of the Province, and the following historical *resumé* is the result of our inquiries:—

LOCAL GOVERNMENT UNDER THE FRENCH REGIME.

Municipal institutions can scarcely be said to have existed in Canada before the conquest. The settlement of the country was very slow. Although Jean Denys sailing from Harfleur in 1505 discovered the Gulf of St. Lawrence, and Cartier penetrated to Hochelaga in 1535, no earnest attempt was made for many years after to settle the country. The chief object of Roberval's expedition in 1540 appears to have been the acquisition of the precious metals with which the country was supposed to abound. That having failed, and France having become engaged in a great war, Canada was almost forgotten for nearly fifty years. Some think that the foundation of Quebec by Champlain in 1608 was intended as an earnest commencement of the work of colonization. But those under whom and for whom Champlain then acted sought chiefly to make profit of their monopoly of the fur trade, then becoming valuable, and although Champlain explored much of the country, settlement made little progress. It is said that in 1617 some persons, amongst whom were a family named Hebert, came out for the purpose of engaging in agriculture.* In 1664 the whole French population was but 2,500. In 1679 the French including those settled in Acadia numbered, it was thought, 10,000. In 1697 there was a large influx of emigrants, numbering 2,300, yet in 1721 the whole French population was estimated at only 25,000, of whom 7,000 were located in Quebec city, and 3,000 in Montreal. The total of acres in tillage that year was 62,000, and in grass 120,000.† A large portion of the population was engaged during all those years in trading, hunting, and fighting, the war with the Iroquois commenced by Champlain having never actually ceased. Under such circumstances local self-government could not make much progress, even if the people

* Miles' History of Canada p. 56.

† Garneau's Canada, vol. 1, p. 412.

had brought with them a healthy spirit of independence and self-reliance. But the government was essentially a military despotism, even while a trading company possessed vice-regal powers, and the lands were held on the old feudal tenure. Henry the Fourth gave the Marquis de la Roche power to grant leases to men of gentle blood in forms of fiefs, chatelaines, counties, and baronies, such investitures to be charged with the tutelage and defence of the country. When "the Company of a Hundred Partners" was created by Cardinal Richelieu, in 1627-8, like powers were conferred on it, and it was even empowered to create duchies subject to royal confirmation. This power it did not use, but it divided part of the country into seigniories, and from 1627 to 1663 accorded 29 of these, namely 17 in the Government of Quebec, 6 in that of Three Rivers, and 6 in that of Montreal.* The tenure of all the lands subsequently "accorded" was similar. The seigniors held under the King as lord paramount, doing him homage for their lands and paying him a fifth of the computed value of any lands they at any time alienated by sale or gift, but receiving a *rebat* of two-thirds if payment were made immediately. The Seigniories were divided into farms of about 90 acres each. The renter or censitaire paid a yearly rent of two sous per acre, and in addition half a bushel of grain for the entire farm. The first rent (*cens*), and the rent services (*rentes*), were not fixed by law. The censitaire was bound to render various services, and to get his wheat ground at the seignior's mill, one-fourteenth being taken as *moiture*. If he sold his farm or any part of it one-twelfth of the price went to the seignior. This was found to be very oppressive in cities and towns where land changed owners frequently. In time the Canadian courts held that the seignior was but a feoffee in trust "for if he refused to concede lands to the colonists at current rates the Intendant was authorized to do it for him by a decree" which served as a title to the renter. Garneau says that there were but two fiefs in fee simple (in absolute freehold) in Canada.—Charlesbourg and Three Rivers. "The seigniors were also authorized to try in their domainial courts all felonies and high and petty misdemeanours."† Bouchette‡ states that one of the obligations of the tenanciers or holders of land *en roture* was to repair the highways and by-roads passing through their lands, and to make new ones which, when opened, must be surveyed and approved by the Grand Voyer of the district, and established by *Proces Verbal*." The Grand Voyer was appointed by the Governor, and as the Governor-in-Council were long the chief judicial tribunal of the Province, and transacted all civil business of importance, it is probable that the work recommended in such *Proces Verbal* required their approval. After the office of Intendant was created the Grand Voyer probably reported to that officer. The Commissioners appointed by Lord Durham in 1838 to enquire into the Municipal Institutions of Lower Canada, in their report say: § "The road officers of the Province are the Grand Voyer, and his deputy in each district . . . a surveyor of roads in each parish or township, and an overseer of highways in each subdivision of every parish and township never exceeding nine. The Grand Voyer . . . is appointed by the Governor during pleasure; the deputy Grand Voyer and the surveyor of roads are nominated by the Grand Voyer, and the overseers of highways are elected by the people. The Grand Voyer is paid by salary and fees, and pays his deputy according to private arrangement. The surveyors and overseers are gratuitous servants of the public. . . . The duty of the Grand Voyer is to open new roads and to see that the established roads are kept in good repair; this duty as regards the opening of new roads he is bound to discharge on the requisition of any one interested person; the requisitionists being liable for the Grand Voyer's claim for fees and travelling expenses . . . whether he grant or reject the prayer of the petition." At that time "the Court of Quarter Sessions could take cognizance of the form and technical accuracy of the *proces verbal* prepared by the Grand Voyer, but could not enquire into the merits of the case. The Grand Voyer was also bound "after public notice was duly given, to make annual visits through the highways, leading from point to point within his district, and to examine and enquire whether the surveyors and overseers duly execute their several offices, and in default thereof to prosecute them or either of them for neglect."

* Garneau's Canada, p. 183.

‡ Description of Lower Canada, p. 18.

† Garneau's Canada, Vol. 1, p. 185.

§ Appendix C to Lord Durham's Report, p. 23.

How far this system was an enlargement or development of the system originally established it would be difficult to ascertain.

On the front roads which are those which run between two ranges of concessions, each proprietor made the road in front of his own farm and kept it in repair. The frontage was generally 180 yards French measure in length. But there were numerous exceptions to this rule. Hills, bridges, marshes, and all portions of more than average difficulty were "worked by joint labour." The Grand Voyer designated all who ought to contribute a share. Through all unconceded land also, and all uncultivated land in possession of the original Crown grantee, the highways were made and repaired by joint labour of the parties to whom the road was useful. The by-roads or cross roads were altogether made and repaired by joint labour.

In the earlier days of the colony few public roads were necessary, as the people who engaged in agriculture settled along the banks of the St. Lawrence and its tributaries, and used these as their highways in summer and winter. Such road work as was then thought necessary was done by order of the Grand Voyer under the direction of the Captain of the Militia, who was an important functionary.

In each of the towns of Quebec, Three Rivers and Montreal, an officer called a Syndic was elected. It is difficult to ascertain exactly how he was elected, or what were his powers, or when the office was first created. Parkman says * that the Syndic was an officer elected by the inhabitants of the community to which he belonged, to manage its affairs. According to other writers, the Syndic's chief duty was to represent the wants and wishes of the people to the Governor of the district, or the Governor-General. When the Company of a Hundred Partners, or its successors, withdrew from the government of the Province, the council was re-organized, and then consisted of the Governor, the Superior of the Jesuits, and three of the principal inhabitants. These last were to be chosen every three years by the Council itself, in conjunction with the Syndics of Quebec, Montreal, and Three Rivers.†

There seems to be little reason to doubt that if the people had been left free to act they would notwithstanding the enormous difficulties to be overcome have developed a system of self-government. In August, 1621, Champlain called a meeting of the inhabitants of Quebec to consider the propriety of petitioning the King for assistance, and meetings were held frequently under the direction of members of the Sovereign Council, to discuss such matters as the supply and price of bread and firewood, but even these were afterwards disallowed.

"When the sovereignty of Canada was resumed by the King" the system of government was materially changed. The royal ordinance of April, 1663, decreed the establishment of a royal administration, and the erection of a supreme tribunal named the Sovereign Council of Quebec, constituted like the Parliament of Paris. The chief government of all the affairs of the colony, both administrative and judicial, was vested in the Sovereign Council to be exercised with as full authority as that of any of the Supreme Courts of France. . . . This Council was at first composed of the Governor-General, the bishop, five councillors‡ and an attorney-general. It had the right of trying all cases, civil and criminal, with power of determining in the last resort in conformity with the decisions and forms obtaining in the French Supreme Courts." § The office of Intendant was created at the same time. The Sovereign Council, afterwards increased to twelve, met as a law court every Monday; the Governor presided, the bishop at his right, and the Intendant on his left. In its administrative capacity the Council had the disposal of the revenue of the Province, and the supervision of the interior trade. The Intendant appears to have had special charge of the preparation of ordinances, and control of civil and financial affairs. He was even in these matters subordinate to the governor, but the quarrels and disputes of the two functionaries form no small part of the subsequent history of French Canada. "The Sovereign Council was empowered to

* Jesuits in North America, p. 332.

† Named by those two dignitaries conjointly every year.

‡ Ibid.

§ Garneau's History, vol. 1, p. 188.

establish at Montreal, Three Rivers, and in all other places in which such should be wanted tribunals of the first resort for the summary disposal of cases of inferior importance." About the same time commissaires for judging petty causes, and officers known as "deacons of habitations" were created. The commissaires were the five councillors—the members of the Sovereign Council named by the Governor and bishop conjointly,—and their duty as commissaires was to see that the decrees of the Sovereign Council were carried into effect, and to take preliminary cognizance of any affair brought under their purview by the deacons of habitations. These deacons were, Garneau says,* "A kind of municipal officers appointed by election to note any infraction of public rights and be careful of the common weal in urban communities; the office was not new. The regulations of 1647 . . . show that the inhabitants of Quebec, Montreal and Three Rivers had one such officer † in each of these places, but it appears that the office had ceased to exist towards 1661."

The necessity of municipal government as a means of progress appears to have been felt by the new government. Upon the requisition of the procurator-general, the Sovereign Council in 1663 called a meeting of the citizens for the election of a mayor and two aldermen; whereupon the chief inhabitants of Quebec and its environs assembled and chose Jean Baptiste de Repentigny as their mayor, with Jean Madry and Claude Charron as aldermen. The council appears to have become alarmed, for, these persons acting, it is presumed, under pressure, resigned. Then the council declared that, considering the peculiar condition of the district and the fewness of its inhabitants, one head deacon to be elected by the people would suffice for the time. When one was chosen accordingly, his election was annulled by the ruling party in Council, under the pretext that it was not satisfactory to a majority of the constituents. The electors were convoked once more, but few attended this time The Governor then addressed a circular of invitation to safe parties who made choice of a new chief deacon, despite the demurring of the chief citizens, and protests of a minority in Council. The election took place in the presence of the Governor. To the person thus elected the Governor administered the oaths of office, despite the protests of some members of the Council. "From this time forward," says Garneau, ‡ "there was no further question of free municipal government in Canada, so long as French domination endured, although a nominal syndicate existed for a short time after that now under review." He adds that he has been all the more particular in giving these details "because the popular elections, which were then first projected, and forthwith caused to miscarry were the only examples of the kind known to our annals. In that age the metropolitan executive was bent on stifling all aspirations of the people for freedom, either at home or in the colonies, but more especially dreading any liberal pretensions in the latter." In support of this the historian quotes the official project for the government of New France, drawn up by Messrs. de Tracy and Tabon in 1667. One other attempt was made, however, to introduce municipal government.

In the re-organization of the government of which we have been treating, the power of taxation was reserved absolutely to the King. A decree issued by Louis XV, in 1742, stated that "the governors and intendants have no allowance to levy imposts; that is a sovereign right which His Majesty communicates to none. It is not even lawful for the people to tax themselves, except by our permission."

The second attempt to establish municipal institutions was made by Frontenac in 1672. He seemed to think that representative institutions of even a higher character should be established. Under pretence of desiring to administer the oath of allegiance to the whole people, he, on October 23rd, 1672, soon after his first arrival convoked the three estates of Canada at Quebec with as much pomp and splendor as circumstances would permit. For the order of the clergy he had abundant material. Three or four *gentils hommes*, of Quebec, and a number of his officers represented the nobles. He formed a third estate of merchants and citizens; and the members of the council and the magistracy he formed into another body. When they had assembled he delivered a speech carefully prepared, which seems not to have differed much in form or tone from speeches afterwards

* History of Canada, vol. 1, p. 189.

† The Syndic.

‡ History of Canada, vol. 1, p. 190.

delivered from the throne by British Governors, except that he did not propose any measures for their consideration, or invite them even to advise as to what legislation may be desirable. Afterwards he applied himself to another work, that of giving a municipal government to Quebec after the model of some of the cities of France. In place of the syndic, an official supposed to represent the interests of the citizens, he ordered the public election of three aldermen, of whom the senior should act as mayor. One of the number was to go out of office every year, his place being filled by a new election; and the Governor as representing the King reserved the right of confirmation or rejection. He then, in concert with the chief inhabitants, proceeded to frame a body of regulations for the city, destined as he again and again declared to become the capital of a mighty empire; and he further ordained that the people should hold a meeting every six months to discuss questions involving the welfare of the colony. These proceedings were not approved of at Paris.* Colbert, in reply to Frontenac's dispatches, wrote "Your assembly of the inhabitants, to take the oath of fidelity, and your division of them into three estates may have had a good effect for the moment; but it is well for you to observe that you are always to follow in the government of Canada the forms in use here; and since our kings have long regarded it as good for their service not to convoke the states general of the kingdom, in order perhaps to abolish insensibly this ancient usage, you on your part should rarely, or to speak more correctly, never give a corporate form to the inhabitants of Canada. You should even as the colony strengthens suppress gradually the office of the syndic, who presents petitions in the name of the inhabitants; for it is well that each should speak for himself, and no one for all."

Under such a system the establishment and development of municipal institutions worthy of the name was evidently impossible, and the colonists, few in numbers, and engaged in warfare almost perpetual, at first with the fierce Iroquois, and afterwards with the English, had little time, and probably little inclination, to seek such a change in the system as would permit the growth of self-government. The tenure of land *en fief* and *en roture* might perhaps have been reconciled with the adoption of a municipal system, but it is surprising to learn that not only their own system was guaranteed to the French Canadians by the Act of 1774, but that in 1775 instructions were sent from England, directing that all grants of land within the Province of Quebec, then comprising Upper and Lower Canada, were to be made *en fief* and seigniorly. And even the grants to the refugee loyalists and officers and privates of the colonial corps, promised in 1786, were ordered to be made on the same tenure.† To what extent the section of the Quebec Act, which provided that the inhabitants of any town or district may be authorized to "assess, levy and apply for the purpose of making roads, or for any other purpose respecting the local convenience and economy of any town or district, such sums as may be necessary" was operative before 1791, it is difficult to ascertain; but Lord Durham, writing of the French Canadians in 1839 said: "The higher classes and the inhabitants of the towns have adopted some English customs and feelings, but the continued negligence of the British Government left the mass of the people without any of the institutions which would have elevated them in freedom and civilization. It has left them without the education, and without the institutions of local self-government, that would have assimilated their character and habits in the easiest and best way to that of the Empire of which they became a part. They remain an old and stationary society in a new and progressive world."‡ What he here ascribed to negligence, Lord Durham elsewhere attributed to a settled although mistaken policy.

THE SETTLEMENT OF UPPER CANADA.

But until the refugee loyalists and disbanded soldiers were brought to Canada, and settled along the St. Lawrence above Montreal, and in some places on Lake Ontario, the population of what is now the Province of Ontario was so small that municipal institutions of any kind could scarcely have existed there. Bouchette says§ that "in 1775 the popu-

* Parkman's Frontenac and New France, pp. 19-20.

† Lord Durham's Report, p. 12.

‡ Lord Durham's report, p. 25.

§ Description of Canada, p. 8.

lation had increased to 90,000, in which estimate the present Province of Upper Canada is included; but as very few settlements had as yet been made there, its inhabitants could form but a very trifling difference in the census." After the conquest the western part of Canada was abandoned to the Indians as a hunting ground, occupied at its western extremity on Lake Erie, by a few of the ancient French colonists.* The French indeed had built forts, and established trading stations at various points on the Lakes at an early period, their missionaries, traders and *courreurs du bois* made their way to the valley of the Mississippi, and as far west as the Rocky Mountains. In 1672-3 Fort Frontenac was built at the mouth of the Cataragui, where Kingston now stands. In 1683 Fort Michilimackinac was built and Father Marquette discovered the Mississippi. In 1680 Father Hennepin made his way to the Falls of St. Anthony, and in 1682 La Salle descended the Mississippi to the sea. In 1685 Denonville, after a successful campaign against the Senecas, rebuilt Fort Niagara. A trading post and fort were established also near the site of Toronto. But although the soil was so much more fertile than that of the Lower St. Lawrence, and the climate so much more genial, no attempt to colonize appears to have been made anywhere, except in the neighbourhood of Detroit. Trade relations were established with the Hurons and other Indian tribes then very numerous, and a great number of barges left Quebec and Montreal once a year for the trading posts, with a great number of canoes, in which were carried the merchandize to be exchanged for furs with the tribes of the remote interior. The French trade in peltry was large and profitable then, but long before the conquest the Hurons had been exterminated, and the numbers of the Indians of other tribes had been greatly reduced. The English who came to Canada immediately after the conquest settled in Quebec or Montreal, where they soon obtained control of the trade. It is stated that the exports from Great Britain to Canada in 1763 amounted to £8,624. Others sought and obtained employment from the Government, or settled on lands purchased at a small price from the seigniors. Grants of land were made also to the officers and privates of disbanded regiments. Afterwards the settlement of the district known as the Townships, with a British population, became the policy of the Government.

Major Rogers, who was sent from Montreal by Lord Amherst in 1760 to take possession of Detroit, found Fort Frontenac in ruins, and near Toronto the remains of the French Fort. At Niagara he obtained supplies from the garrison. He met several bands of Indians along the way, but he appears to have seen no settlement of white people. In 1767, as appears from a despatch of Sir William Johnson's to the Earl of Shelburne, the traffic carried on at Toronto was so considerable that persons could be found willing to pay £1,000 a year for the monopoly of it. Major Rogers had stated that "even a single trader would not think it worth attention to supply a dependent post." To this, Sir William replied "Yet I have heard traders of long experience and good circumstances affirm that for the exclusive trade of that place for one season they would willingly pay £1,000, so certain were they of a quiet market—and even the cheapness at which they could afford their goods there."†

At the close of the American revolutionary war a large number of U. E. Loyalists moved into what was then regarded as the Western part of Canada. They received free grants of land and were otherwise assisted by the Imperial Government. The disbanded officers and soldiers of the 84th Regiment also received free grants at the rate of 5,000 acres for a field officer, 3,000 acres for a captain, 2,000 acres for a subaltern, and 200 acres for a private. In order to provide for their settlement, the land on the St. Lawrence from the highest French settlement near the Lake St. Francis up to Lake Ontario and round the Bay of Quinte was divided into townships and subdivided into concessions and lots. . . . These townships were numbered, but not named until several years afterwards. Of the numbers there were two series, one including the townships on the river below Kingston, the other containing those from Kingston, inclusively, westward to the head of the bay. In the summer of 1784, the persons to whom those lands were assigned took possession of them, thus at once settling a territory of a hundred and fifty miles in extent on the river and lake.

* Alexander's Bonnycastle, p. 24.

† Scadding's Toronto of Old, pp. 10-14.

The same year the Loyalists composing Butler's Rangers, and those attached to the Indian department, had lands assigned to them near Niagara, on the west side of the river and south side of Lake Ontario, and also in the neighbourhood of Detroit on the east side of the strait, The new settlers were accommodated with farming utensils and building materials, and for the first two years were supplied with provisions and some clothing at the national expense.* Several other persons afterwards removed from the United States to Canada, and to these also, and to a number of discharged soldiers, British and German, free grants of land were made. The population of this part of Canada was about that time estimated at 10,000. In 1786, Canada and the Provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland were formed into a viceroyalty, and Sir Guy Carlton (Lord Dorchester) was appointed Governor. The population was said to exceed 115,000. The country was regarded as prosperous. No change appears to have been made in the system of government.

When the independence of the United States was acknowledged, much of the territory enclosed within those boundaries was ceded to that country and its claim to more was afterwards successful. What was thus given away was probably regarded in England as merely a few miles of wilderness. The division of what remained into the Provinces of Upper and Lower Canada was made by Royal Proclamation.

THE CONSTITUTIONAL ACT OF 1791.

The settlers in the west soon became dissatisfied with their political condition, and in 1791 the act known as the Constitutional Act† was passed. Mr. Pitt, when introducing the measure in the House of Commons "was so impressed with the impossibility of reconciling the jarring interests which had already developed themselves between the British settlers in the west and the French Canadians in the east that he stated he knew not how to reconcile or destroy their unhappy influence but by separating the people of such different origin, and of such different language and feeling."‡

The Constitutional Act as passed provided that there should be in each of the provinces a Legislative Council and Assembly, and that the king should have power "by and with the advice and consent of the Legislative Council and Assembly of such provinces respectively to make laws for the peace, welfare and good government thereof; such laws not being repugnant to this Act." Authority was given to summon a sufficient number of discreet and proper persons, being not fewer than seven to the Legislative Council of Upper Canada and not fewer than fifteen to the Legislative Council of Lower Canada. The members of the Legislative Councils were to hold their seats for life.§ It also provided, although this was never acted on, we believe, that "whenever His Majesty . . . shall think proper to confer upon any subject of the Crown of Great Britain by letters patent under the great seal of either of the said Provinces any hereditary title of honour, rank or dignity of such Province discernible according to any course of descent limited in such letters patent, it shall and may be lawful for His Majesty . . . to annex thereto . . . an hereditary right of being summoned to the Legislative Council of such Province discernible according to the course of descent so limited with respect to such title, rank or dignity, and that every person on whom such right shall be so conferred, or to whom such right shall severally so descend shall thereupon be entitled to demand . . . his writ or summons to such Legislative Council." This right would be forfeited if the person to whom it descended absented himself from the Province for the space of four years continuously without permission of His Majesty, signified to the Legislative Council by the Governor or Lieut.-Governor, or if the person took an oath of allegiance to a foreign power. In all cases the Councillors absenting themselves from the Province without permission forfeited their seats. The Speaker of the Legislative Council was to be appointed by the Governor or Lieut.-Governor, by whom also he may be removed. For the purpose of electing members of the Assembly, the Lieut.-Governor

* Gourley's Statistics of Upper Canada, pp. 10-12.

† Alexander's Bonnycastle, p. 28.

+ 31st Geo. III., cap. 31.

§ Section v.

of each Province was authorized to issue a proclamation dividing each province into districts or counties, or circles and towns, or townships, and appointing the limits thereof,* and declaring and appointing the number of representatives to be chosen by each. "The number of members to be elected in Upper Canada was not to be less than sixteen, and the number in Lower Canada not less than twenty. The Governor was authorized to appoint the Returning Officers, and the members were to "be chosen by the majority of votes of such persons as shall severally be possessed for their own use and benefit of lands and tenements within such district, county, or circle, such lands being by them held in freehold, or in fief, or in roture, or by certificate derived under authority of the Governor in Council in the Province of Quebec, and being of the value of forty shillings sterling, or upwards, over and above all rents and charges payable out of or in respect of the same; and that the members for the several towns or townships shall be chosen by a majority of votes of such persons as either shall severally be possessed for their own use and benefit of a dwelling house and lot of ground in such township held by them in like manner and being of the yearly value of five pounds sterling or upwards, or as being resident within the said town or township for the space of twelve calendar months next before the date of the writs of summons for the election, shall *bona fide* have paid one year's rent for the dwelling house in which they shall have so resided at the rate of ten pounds sterling per annum or upwards." †

The members of the Assembly, it was provided, must be British subjects and twenty-one years of age or upwards. The writs of summons and election must be issued not later than December 31st, 1792. Any acts of the Legislatures might be disallowed within two years from the time of their passing, and no bills reserved for the signification of the King's pleasure were to have force or authority until the royal assent had been given to them and duly signified.

After the passing of the Act of 1774, grants of land under the feudal tenure of the French were issued to the settlers in all parts of Canada. Section 43 of the Constitutional Act provided that "all lands which shall be hereafter granted within the Province of Upper Canada shall be granted in free and common soccage," and that in every case in which lands were thereafter granted in Lower Canada and where the grantee so desired those lands also should be granted in free and common soccage, but subject to such alterations with respect to the nature and consequence of such tenure as may be established by any law passed by the Provincial Legislature. It also provided that persons holding land in Upper Canada by virtue of any certificate of occupation derived under the authority of the Governor and Council of the Province of Quebec may surrender the same and obtain a grant in free and common soccage.

This was really the introduction of representative institutions in Canada.

THE FIRST PARLIAMENT OF UPPER CANADA.

On July 24th, 1788, Lord Dorchester (Sir Guy Carleton), then Governor-General by authority of an ordinance made in the 27th year of the reign of George III., and of another ordinance made in 1788, had issued a proclamation dividing what was afterwards Upper Canada into four districts named Lunenburg, Mecklenburg, Nassau, and Hesse.

On July 16th, 1792, Lieut.-Governor Simcoe, under and by authority of the Constitutional Act, issued a proclamation dividing Upper Canada into 19 counties, viz: Glengarry, Stormont, Dundas, Grenville, Leeds, Frontenac, Ontario, Addington, Lennox, Prince Edward, Hastings, Northumberland, Durham, York (to consist of two ridings), Lincoln (divided into four ridings), Norfolk, Suffolk, Essex, and Kent. For the purposes of representation Glengarry was divided into two ridings, each of which was to elect a representative. Stormont, Dundas, and Grenville were to elect one representative each; Leeds and Frontenac together were to elect one member. Ontario and Addington together were to elect one member. The county of Prince Edward and the district of Adolphustown (in Lennox), were together to elect one represen-

* Section xiv.

† Section xx.

tative. The remainder of Lennox and the counties of Hastings and Northumberland together were to elect one member. Durham, York, and the first riding of Lincoln together were to elect one representative. The second and third riding of Lincoln were each to elect one representative. The fourth riding of Lincoln, and the county of Norfolk were to elect one representative. The county of Suffolk and the county of Essex together were to elect one member, and the county of Kent was to elect two representatives. The minimum number of sixteen representatives were thus distributed apparently according to population as nearly as may be.

The first Parliament of Upper Canada was summoned to meet at Newark (afterwards Niagara), which Governor Simcoe had selected as the seat of Government.

It would be difficult to overestimate the importance of its work as a legislature. Its very first act was to repeal that part of the Imperial Act 14 George III., which related to civil rights. Its Act, 32 Geo. III., cap 1, declared that the authority of such laws of Canada and every part thereof as formed a rule of decision in all matters of controversy relative to property and civil rights "shall be annulled, made void, and abolished throughout this Province, and that the said laws, nor any part thereof, as such, shall be of any force or authority within the said Province, nor binding upon any of the inhabitants thereof." It further declared and enacted that "from and after the passing of this Act in all matters of controversy relative to property and civil rights resort shall be had to the laws of England as the rule for the decision of the same." The Act provided that the ordinances of Quebec should not be held to be repealed or varied otherwise than as they are necessarily varied by the provisions herein mentioned ;" that all matters relative to testimony and legal proof in the several courts of law and equity be regulated by the rules of evidence established in England, and that nothing in this Act contained shall vary or interfere, or be held to vary or interfere, with any of the subsisting provisions respecting ecclesiastical rights or dues within this Province, or with the forms of proceeding in civil actions, or the jurisdiction of the courts already established, or to introduce any of the laws of England respecting the maintenance of the poor or respecting bankrupts.

Its second Act (32 Geo. III, cap 2), established trial by jury. It provided that "from and after the first day of December, in this present year of our Lord one thousand seven hundred and ninety-two, all and every issue, and issues of fact which shall be joined in any action, real, personal, or mixed, and brought in any of His Majesty's courts of justice within the Province aforesaid shall be tried and determined by the unanimous verdict of twelve jurors duly sworn for the trial of such issue or issues, which jurors shall be summoned and taken conformably to the law and custom of England."

These which were really revolutionary measures removed two great causes of the discontent which had prevailed for some years in Western Canada.

Chapter 3 was an Act to establish the Winchester measure and a standard for other weights and measures throughout the Province; Chapter 4 an Act to abolish summary proceedings of the Court of Common Pleas in actions under ten pounds sterling, the reason assigned for this being that "the introduction of trial by jury had materially altered the constitution of that court." Powers were conferred on the Courts of Quarter Sessions of which we had previously heard nothing. Chapter 5 empowered "the magistrates in each and every district of the Province in Quarter Sessions assembled to make such orders and regulations for the prevention of accidental fires within the same as to them shall seem meet and necessary; and to appoint firemen or other officers for the prevention of accidental fires, or for the purpose of extinguishing the same when such may happen; and to make such orders and regulations as to them may seem fit or necessary in any town or towns, or other place or places within each district within this Province where there may be forty storehouses and dwelling houses within the space of half a mile square." Again Chapter 6, an Act for the more easy and speedy recovery of small debts, provided that any two or more justices of the peace acting within the limits of

their jurisdiction may assemble, sit, and hold a court to be called the Court of Requests on the first and third Saturdays of every month "at some place fixed within their respective divisions, which division shall be ascertained and limited by the justices assembled in their general quarter-sessions, or the greater part of them, and the place for holding the said court shall be fixed by the justices acting in and for the said division, or the greater part of them; and the said justices are hereby declared constituted, and appointed to be commissioners to hear and determine all such matters of debt as are hereinafter mentioned, and shall have power and authority by virtue of this Act to give judgment and decree, and award execution thereupon, with such costs as shall be hereinafter specified against the goods and chattels of all and every, the person or persons against whom they shall give any judgment or decree." The sections determining the extent of the jurisdiction of these courts were afterwards repealed and they are not published. The fees were for each summons, sixpence; each judgment, two shillings; each execution, two shillings; for every subpoena, sixpence; for every copy of judgment, if demanded, one shilling; the allowance to witnesses to be left to the discretion of the justices, but not to exceed two shillings and sixpence per day to each witness. The fees for serving summons, subpoena, and writ of execution, and for seizing and selling were fixed on a similar scale.

Chapter 7 provided that no miller should demand, take, or receive more than one twelfth-part for grinding and bolting any grain brought to him to be ground. The penalty for any violation of this act was ten pounds currency.

Chapter 8 changed the names of the four districts. It provided that the district called Lunenburg in Lord Dorchester's proclamation should be known as the Eastern District; Mecklenburg as the Midland; Nassau as the Home; and Hesse as the Western District; and it provided for the erection of a gaol and court house in each district. The magistrates in Quarter Sessions were authorized to procure plans, to select such plan as they thought best; and through two or more of their body to contract with any parties willing to put up the buildings according to the approved plans on such site as the majority of the justices may select. The lowest tender was to be accepted if the security offered were sufficient, and the building must be completed within 18 months from the execution of the contract. The sheriff was to appoint the gaoler. The justices in Sessions were to make rules for the management of the goals, which when approved by one of the judges of the Supreme Court would be binding on gaoler and prisoners. It was thought necessary to enact that the gaoler should not be licensed to sell liquor within the gaol, and to impose a penalty of twenty pounds for every offence on any gaoler who should sell, lend, use, or give away, or knowingly permit, or suffer any spirituous liquors to be sold, used, lent, or given away in such gaol, or to be brought into the gaol, unless prescribed by a regular physician. The justices were authorised to appoint a salary to be paid the gaoler in place of all fees, perquisites, and impositions.

These were all the Acts passed in the first session of the Upper Canadian Legislature which continued from September 17th to October 15th. No provision for raising a revenue for any purpose was made in that Session.

The work of construction and organization was continued in the next session.

THE BEGINNING OF LOCAL GOVERNMENT.

The township system of surveys which had long been in use in the revolted colonies was introduced in Upper Canada when the settlement of that part of the country was earnestly begun. Amusing stories are told of the manner in which the lands were distributed to the U. E. Loyalists, and the disbanded soldiers, and of the manner in which names were afterwards found for some of the townships. Township organization of some sort would seem to be an almost necessary consequence of such a division of the land, but the loyalists and the military men who had served in the revolutionary war, and who took an active part in the organization of the Province, appear to have regarded township municipalities with aversion, probably because they had served as such effectual instru-

ments of organization when the other colonies revolted. Still, it seems to have been thought necessary to make some show of township government to satisfy a people who had long been accustomed to discuss and determine their local affairs at town meetings.

The first Act of the second session was "for the better regulation of the militia." The second was an Act "to provide for the nomination and appointment of parish and town officers." This Act provided that "any two of His Majesty's Justices of the Peace acting within the division in which any parish, township, reputed township, or place may be, may issue their warrant, giving eight days' previous notice to the constable of such parish, township, reputed township, or place, authorizing him on a day to be fixed by the said justices in the present year, and on the first Monday in the month of March in every ensuing year, to assemble the inhabitant householders, paying or liable to pay to any public assessment or rate of such parish, township, reputed township, or place, in the parish church or chapel, or in some convenient place within the said parish . . . for the purpose of choosing and nominating the parish or town officers hereinafter mentioned, to serve in their respective offices for the year next ensuing, at which meeting the said constable shall preside." The office of constable appears to have still retained some of its ancient dignity in the estimation of the colonists. The inhabitant householders so assembled were authorized to choose a clerk of the parish or township whose duty it should be "to make a true and complete list of every male and female inhabitant within the limits of the parish or township, and return the same to the Justices acting as aforesaid," and "to enter and record all such matters as shall relate to the said parish, town, or township, and shall appertain to his office." They were also authorised to choose two persons to serve as assessors, one person to serve as collector of taxes, and not less than two or more than six persons, as specified in the warrant issued by the justices, to serve as overseers of highways. The duty of these officers was "to oversee and perform such things as shall be directed by any Act to be passed touching or concerning the highways and roads," and to serve as fence viewers. They were also to choose a pound keeper, and two persons to serve as town wardens, but "as soon as any church was built for performance of divine service according to the use of the Church of England with a parson or minister duly appointed thereto," the householders should choose one of those wardens and the parson or minister nominate the other. The two so chosen and nominated were declared "a corporation to represent the whole inhabitants of the town or parish," and as such "may have a property in goods or chattels of, or belonging to the parish, and may prosecute, or defend in all presentments, indictments, or actions for and on behalf of the inhabitants of the said parish." Persons neglecting or refusing to take the oath of office, and discharge the duties were subject to a penalty of forty shillings in each case, and the magistrates may, at a special Sessions, name one or more persons to fill the positions they left vacant. The Act did not define the duties of any of those officers further than to state that the overseers should do whatever may be directed respecting the highways by any Act to be passed, and that as fence viewers they should, upon receiving proper notice view and determine upon the height and sufficiency of any fence "conformably to any resolutions that may be agreed upon" at the meeting so held. And the pound-keeper was authorized to impound all cattle found trespassing upon any land properly fenced, and any stallion of more than one year old that may be found roaming at large. The same Act authorised the magistrates at Quarter Sessions to appoint a high constable for each district annually, and constables for each township.

In the year following additional power was given to the inhabitant householders in their annual town meetings lawfully assembled. They were authorised * "to ascertain and determine in what manner and at what periods horned cattle, horses, sheep, and swine, or any of them should be allowed to run at large within their respective divisions, or resolve that the same, or any part thereof shall be restrained from so doing, and the pound-keeper was authorized and required to impound any animals found roaming at large "contrary to the regulations of the town meeting" and to exact compensation and fees from the owners. An amendment to this Act † defined more fully the duties of the

* 34 Geo. III, c. 8, sec. 2.

† 43 Geo. III, c. x.

pound-keeper in such cases, empowered a justice of the peace and a jury of three free holders to assess damages for trespass claimed, if disputed by the owner, or if the owner did not appear, and absolutely prohibited the running at large of swine in York, Niagara, Queenstown, Amherstburg, Kingston, and New Johnstown. This section was subsequently repealed as to all those places except Queenston and New Johnstown by an Act 2nd George IV, c 11, which, declaring that the laws then in force had been found ineffectual and insufficient to abate an increasing nuisance, repealed the previous Act as far as it related to the towns named and provided that thereafter "the magistrates in Quarter-Sessions for any district wherein a police in any town therein is now, or may hereafter be established by law, may make, order, constitute, and publish such prudential rules and regulations as they may deem expedient relative to restraining swine running at large in any such town," subject to the provisions of any law establishing such police.

The powers of the town meetings thus limited were not enlarged for many years. Several Acts indeed were passed in amendment of the original Act, but none of these enlarged the powers of the town meeting. One Act* required the collectors of rates to give bonds, and empowered the sessions whenever a collector died or left the parish to fill the vacancy. Another † authorized the holding of special elections of nine officers in the part of the County of Haldimand, not yet divided into townships. Another ‡ provided that collectors of taxes should pay all they had collected to the treasurer of the district every quarter or oftener if required by the sessions. For some reason not stated the town of Prescott was excepted from the operation of this Act. Another amendment § changed the day of the annual town meeting to the first Monday in January. Another || authorized each township to elect three additional overseers. An Act ¶ prescribed a form in which the assessors should make up the list of the inhabitants, and the manner in which the assessors should be notified of their election, and enter upon their duties. The Clerk of the Peace was required to make out a general return of the population of the district from the assessors' returns, and the remuneration of the assessors was increased by three pounds for every hundred pounds on the assessment roll. Another Act, passed in the same year, provided that "the Justices of the Peace, in, and for the several districts of the Province, shall have power . . . to appoint a surveyor of streets, in and for each town within their respective districts, and to remove any such officer so appointed at their will and pleasure. So far as related to such towns the power of township meetings to elect overseers was taken away. Another amendment ** authorized the townships to elect as many as thirty overseers, and three pound-keepers at their annual meetings.

From this it will be seen that the inhabitant householders of the townships were for many years permitted to do little more than elect a few officials, who, even in the discharge of their merely local duties, were for the greater part under control of the Quarter Sessions. The duties of the town wardens cannot be said to have been fully defined in the Act authorizing their election.

GOVERNMENT BY JUSTICES IN SESSION.

Although in some of the statutes passed in the first session of the Upper Canada Legislature powers were conferred, and duties imposed upon the magistrates in Quarter Sessions assembled, it does not appear that there really was any Court of Quarter Sessions, unless indeed it be assumed that the first Act of that session, in restoring the operation of the laws of England, relating to property and civil rights, brought such court into existence in theory. The proclamation of Lord Dorchester, by which what afterwards became Upper Canada was divided into four districts, says nothing of such a court. When Lieutenant-Governor Simcoe divided Upper Canada into counties it was only to provide for the election of members of the House of Assembly. Magistrates no doubt were appointed before 1791, but it is not easy to imagine what a Court of Quarter

* 48 Geo. III, c. vii.

§ 57 Geo. III, c. vii.

** 11 Geo. IV, c. vii.

+ 50 Geo. III, c. xii.

|| 59 Geo. III, c. viii.

‡ 53 Geo. III, c. ix.

¶ 4 Geo. IV, c. vii.

Sessions would do while the French Civil Law was in force in all Canada. In the second session of the Upper Canada Legislature an Act* was passed the preamble of which commencing as follows: "Whereas it is necessary to fix the times and places for holding the Courts of General Quarter Sessions of the Peace, within the several districts of this Province" seems to indicate plainly that such courts had not previously been held. This Act provided that the court for the Eastern District should be held at New Johnstown in October and April, and at Cornwall in January and July; the Court for the Midland District at Adolphustown in July and January, and at Kingston in the months of April and October; and the Court for the Home District at Niagara in the months of July, October and January. The Quarter Sessions for the Western District were to be held at Michilimackinac. In 1796 an Act† appointed L'Assumption as the place at which the sessions for that district should be held, and gave the magistrates power whenever they thought it expedient to remove, and hold the same nearer to the island called the Island of Bois Blanc, being near the entrance of the river Detroit." In 1801 doubts as to the authority under which the Courts of General Quarter Sessions had been "erected and holden" grew so strong that an Act to remove these doubts was passed.‡ This declared the authority under which the courts had been held, and all things done by virtue of the same good and valid, and the provisions of "all Acts of the Legislature of this Province respecting the said courts and communities are hereby declared to extend and be in force in each and every the said districts respectively." Other districts had been created, and further provisions as to the times and places for holding the courts were made. We have stated that by previous Acts the Quarter Sessions were empowered to make regulations for the government of gaols, and fix the gaolers' salary, to appoint a high constable for each district, and constables for the parishes and townships, to regulate pound-keepers' fees, to nominate parish and town officers when no town meeting was held, or when the officers elected refused to discharge the duties, or died, or removed from the parish, to appoint surveyors of highways for towns, and to enter into contracts for the erection of a gaol and court house in each district. In 1807 fees were made payable to the Clerks of the Peace, and persons convicted of assault or misdemeanour were made liable to payment of costs. In case of acquittal the prosecutor may be required to pay costs.§ In 1815 an Act was passed|| providing that "whenever any district in the Province shall be actually invaded by the enemy, or it shall be found impracticable from any other cause to assemble the Court of General Quarter Sessions of the Peace at the place especially designated by law for that purpose, it shall and may be lawful for the magistrates in a special session to be convened for that purpose by the chairman to issue their precept to the sheriff, to summon the jurors to assemble at such place in the district as they may consider best adapted to the conveniences of the public and to the furtherance of public justice." As the population increased, new districts were created, and new Courts of Sessions established.

The control of the construction and repair of highways was in Upper Canada in those days, as in Great Britain almost to the present day, one of the chief functions of the Quarter Sessions. An Act¶ to regulate the laying out, amending, and keeping in repair the public highways and roads within the Province was passed in the second session of the Legislature. This was repealed by the Act 38 George III, c. 7, which was afterwards repealed by the Act 50 George III, c. 1. The Act of 1810 provided that the justices of the peace in General Quarter Sessions assembled may appoint one or more surveyor or surveyors of highways in each and every county and riding within their respective districts, to lay out and regulate the highways and roads in manner hereinafter mentioned. And upon application made to any such surveyor by twelve freeholders of any such county, or riding stating that any public highway or road in the neighbourhood of the said freeholders now in use is inconvenient, and may be altered, so as better to accommodate His Majesty's subjects and others travelling thereon, or that it is necessary to open a new highway or road, it shall and may be lawful for such surveyor, and he is hereby required to examine the same and report thereon to the

* Chap. 6.
§ 47 Geo. III, c. xi.

† 36 Geo. III, c. iv.
|| 55 Geo. III, c. ix.

‡ 41 Geo. III, c. 6.
¶ 33 Geo. III, c. iv.

justices at their next ensuing Quarter Sessions giving at the same time public notice thereof (and) it shall and may be lawful for the said justices if there be no opposition to confirm the said report, and to direct such alteration to be made or such new highway or road to be opened. In case of opposition the justices were authorized and required to empanel a jury of twelve, who, after hearing evidence, should upon their oath either confirm or annul the said report, or so alter and modify the same as the exigency of the case may appear to require; their verdict was final, and the justices were required to "direct such highway or road to be altered or opened accordingly." The Sessions were authorized to direct the surveyors of roads to employ a surveyor of lands whenever they thought his services necessary, and by an order on the district treasury to pay him ten shillings for every day he was so employed. The surveyor of highways was paid seven shillings and sixpence a day, in the same manner, for every day he was employed in carrying into effect the provisions of this Act. The Act described what the width of the roads, bridges and causeways should be (the bridges were to be not less than 15 feet in width); authorized the surveyor to cut down trees when necessary, to take such land as may be required, to sell the land where a road or part of a road was disused, or give it in exchange to the owner of the land taken; and prescribed where fences should be built. When claims for compensation were made, the Justices in Sessions were to direct that a jury of twelve disinterested persons should be empaneled, and these were to determine what sum the claimant may be entitled to in addition to the value of the land restored to him, and this sum the Justices were authorized and required to direct the treasurer of the district to pay forthwith. Provision was made for enforcing the performance of statute labour, which was then mainly relied upon for the making and repairing of roads, but when "the surveyors were of opinion that any further sum was wanting to undertake any particular work of manifest general advantage on the highways" the Justices on application of the surveyor, and after ample notice and consideration, may order and direct such work to be performed and direct the treasurer of the district to pay the amount of the same, provided it did not exceed fifty pounds.*

The overseers elected at the township meetings were almost entirely under control of the Justices in Session, who were authorized † to divide the townships, parishes, or ridings into divisions, and allot them to the overseers, who were required to superintend, repair, and keep in order the highways, roads, streets and bridges in their several divisions, and the Justices "may from time to time order any overseer to work on any highway or road within his division as they shall think necessary, and the said overseer shall within ten days after having received such order summon such persons within his division as are obliged to perform statute duty or labour, and order them to work upon such part of the road or highway as they shall be directed to amend or repair, and shall direct all persons performing such labour, to destroy as much as may be in their power all weeds that are hurtful to husbanding." Penalties were imposed upon those who disobeyed such orders. The overseers were also required ‡ to make out a list of all persons who were owners of carts, waggons, ploughs, sleds or teams within their divisions, and of all who under this Act were liable to work upon the highways, and to deliver copies of these lists to the Justices. They were required to collect money compositions for statute labour and all fines and forfeitures incurred under the Act, to expend the same on the work, and to give account to the Justices. The overseer who did not apply the commutation money to the proper use, or did not account for it was liable to imprisonment. They were also required to set stakes and place beacons along the roads in winter wherever these might be necessary.‡

EARLY ASSESSMENT ACTS.

It seems strange that in the first session of the first Upper Canada Legislature no Act was passed to raise money to meet the expenditures that were authorized. The Government had at their disposal the income from the sale of wild, or as they were then called waste lands, and from the duty imposed by Imperial statute on those who kept houses of

* Sec. 20.

† Sec. 11.

‡ Sec. 15.

refreshment or sold liquors. They had also a claim to some share of the money collected in Quebec as customs duties * on goods imported by the St. Lawrence and had the proceeds of duties on goods imported from the United States. Of all the revenues so raised, the Lieutenant Governor claimed to have unlimited control. This claim was not questioned while the revenues were insufficient to meet the cost of government and the balance was provided by the Imperial Parliament. The income from those sources must have been very small at first, as free grants were made of nearly all the lands then disposed of, and imports were inconsiderable. It is singular that under these circumstances the Legislature in its first session provided no means of meeting the expenditures it authorized. In the second session it passed "an Act to authorize and direct the laying and collecting of assessments and rates in every district within this Province, and to provide for the payment of wages to the members of the House of Assembly," which was repealed by 47 Geo. III. c. 7. This was repealed by 51 Geo. III. c. 8, and that again by 59 Geo. III. c. 7, which provided that the following property, real and personal should be deemed rateable property and be rated at the rate and valuation therein set forth, that is to say every acre of arable pasture or meadow land twenty shillings; every acre of uncultivated land, four shillings; every town lot, situated in the towns hereinafter mentioned, to wit York, Kingston, Niagara and Queenston, fifty pounds; Cornwall, Sandwich, Johnstown, and Belleville, twenty-five pounds; every town lot on which a dwelling was erected in the town of Brockville being composed of the front half of lots numbers ten, eleven, twelve and thirteen in the first concession of the township of Elizabethtown in the district of Jownstown, thirty pounds; every town lot on which a dwelling is erected in the town of Bath, being composed of the front or south half of lots number nine, ten and eleven in the first concession of the township of Ernestown in the Middle district, twenty pounds; every house built with timber, squared or hewed on two sides, one story in height and not two stories, with not more than two fire-places, twenty pounds; for every additional fire-place, four pounds; every dwelling-house built of squared or flaked timber on two sides, of two stories in height with not more than two fire-places, thirty pounds; and for every additional fire-place eight pounds; every framed house under two stories in height with not more than two fire-places, thirty-five pounds, and for every additional fire-place, five pounds; every brick or stone house of one story in height and not more than two fire places, forty pounds, and for every additional fire-place, ten pounds; every frame, brick or stone house of two stories in height and not more than two fire-places, sixty pounds, every additional fire-place ten pounds; every grist mill wrought by water with one pair of stones, one hundred and fifty pounds, every additional pair, fifty pounds; every saw mill, one hundred pounds; every merchant's shop, two hundred pounds; every storehouse owned and occupied for forwarding goods, wares or merchandise for hire or gain, two hundred pounds; every storehouse kept for the purpose of covering wares for hire or gain, one hundred and ninety-nine pounds; every horse of the age of three years and upwards, eight pounds; oxen of the age of four years and upwards per head, four pounds; milch cows per head, three pounds; horned cattle from the age of two years to four years, twenty shillings; every close carriage with four wheels kept for pleasure, one hundred pounds; every phaeton or other open carriage with four wheels kept for pleasure only, twenty-five pounds; every cariole, gig, or other carriage with two wheels, kept for pleasure only, twenty pounds; every waggon kept for pleasure, fifteen pounds." Although this sounds very archaic, the Act from which we quote was passed in the year 1819—in the fourth session of the seventh Upper Canada Parliament. The Act passed in the second session and that by which it was repealed appear in the Statute Book only by their titles.

The fourth section provided that "all lands shall be considered as rateable property which are holden in fee simple or promise of fee simple or by lease," and the fifth section provided that any piece of land in any of the towns named on which a building was erected should be considered a town lot.

The Justices in Session † were authorized and required "after having ascertained the sum of money required to be raised for defraying the public expenses of the

* Under the Imperial Act.

† Section 7.

district to divide and apportion the same . . . so that every person shall be assessed in just proportion to the list of his, her, or their rateable property," "provided always that the sum levied should in no one year exceed one penny in the pound . . . on the valuation at which each species of the property before mentioned was rated and assessed." The collectors—elected at the township meetings were required to collect the rates thus levied, and to pay over what they collected to the district treasurer. The assessors were paid four per cent. on the amount assessed and the collectors five per cent. on the amount collected. The Justices in Quarter Sessions were authorized to appoint a Treasurer who should give such security as the Justices may require. The Act provided when lands should become subject to assessment, and how payment could be enforced in all cases. Means of enforcing payment of the rates were provided, and it was enacted that when the rates and assessments of any lot of land were suffered to remain in arrears and unpaid for the space of three years, one third should be added to the amount; if for the space of five years that the amount payable should be increased one half, and if for a space of eight years or upwards, that the amount should be doubled. The Act 6 George IV. c. 7, provided that when the rates were eight years in arrears, part of the lands may be sold at public auction after due notice, and prescribed the manner in which the sale should be made and what fees may be charged. It also required owners of lands not surveyed by the Surveyor-General to make a return of those lands—under a penalty. An Act passed in 1828,* evidently enacted in the interest of non-resident owners, provided that further time should be allowed to non-residents for the transmission of taxes, that if taxes then due on lands for over eight years were paid on or before July 1st, 1829, the increase on the amount originally assessed and levied should not exceed fifty per cent., and that if thereafter taxes were allowed to fall into arrears for any period not exceeding four years the increase should not exceed fifty per cent. It also provided that owners of land might pay to the treasurer of the district in which they resided the taxes due on lands in other districts, and required the treasurer to whom such payment was made to forward the amount to the treasurer of the district in which the lands were situate. The same Act prescribed a somewhat elaborate form to be used by the assessors. The Clerk of the Peace was required to send to the Lieut.-Governor an aggregate account of the assessment" to be laid before the Legislative Council and House of Assembly.

The revenue raised by assessment must have been very small for several years, yet it was the only revenue available for what may be called municipal purposes. The chief means of constructing roads and bridges was "Statute Labour," and this, as might have been expected, proved insufficient. In the second session of the Legislature "an Act to regulate the laying out, amending and keeping in repair the public highways and roads within the Province was passed. This and an Act † "to alter the method of performing Statute Labour," were repealed by the Act 50 Geo. III. c. 1, which prescribed the number of days that each person should work on the highways, the hours of working, the manner of working, the penalties incurred should any persons refuse to do this work when called upon by the overseers, the manner in which those penalties should be recovered, and the amount to be paid in commutation by those who preferred to make a money payment. The sections prescribing the amount of work to be done were repealed by subsequent Acts. One of these ‡ provided, that "every male inhabitant from the age of twenty-one years to fifty, not rated on the assessment for any town, township, or place within the Province, should be compelled to work on the highways three days in every year, within the township or place he may reside in." And then another § provided, that "every person included or inserted in or upon the assessment roll of any township, reputed township or place, shall in proportion to the estimate of his real and personal property stated on the said roll be held liable to work on the highways and roads in each and every year as follows: that is to say, if his property be not rated more than twenty-five pounds, then his proportion of statute labour on the highways shall be two days; if at more than twenty-five and not more than fifty, three days; if at more than fifty pounds

* 9 Geo. IV. c. 111.

† 38 Geo. III. c. 7.

‡ 56 Geo. III. c. 39.

§ 59 Geo. III. c. 8.

and not more than seventy-five pounds, four days ; if at more than seventy-five pounds and not more than one hundred pounds, five days ; if at more than one hundred and not more than one hundred and fifty pounds, six days ;" and so on. When a man's property was assessed at more than £400 and not more than five hundred pounds he was required to do twelve days' work ; for every £100 above that sum until the valuation reached £1,000, he was required to do one day's work additional ; for every £200 additional value above £1,000 up to £2,000, one day's work additional ; for every £300 above that and up to £3,500, one day's work additional ; and for every £500 above that amount one day's work additional. At first the injustice of this was not felt, as years must have elapsed before any property was assessed at more than a few hundred pounds, but afterwards it was found to be a serious grievance that as a man's ability to contribute to the cost of making and repairing the highways increased, and the benefits he derived from them were greater his liability to contribute to the cost decreased. The Act 59 Geo. III. c. 8., sec. 3, provided that lands subject to be rated, but which by reason of their remaining unoccupied or for other cause were not included in the assessment roll, should be rated, at one-eighth of a penny per acre. The Act 4 Geo. IV. cap. 10, virtually authorised the persons liable to this tax to expend it where they pleased, as the subsequent approval of the justices in session was easily obtained.

In the third session an "Act was passed for regulating the manner of licensing public houses" which virtually placed the granting of licenses under the control of the magistrates. It repealed the Quebec ordinance, and provided that "no license should be granted to any person to keep an inn or public house . . . unless he shall first have obtained a certificate of his being a proper person to keep an inn or public house from the magistrates of the division wherein he resides, or is about to reside ;" and that "no certificate to obtain such license shall be granted to any person not licensed the year preceding unless such person shall produce to the justices at the said meeting, should they require it, a testimonial under the hands of the parson and church or town wardens, or of four reputable and substantial householders and inhabitants of the said division wherein the said inn or public house is intended to be kept, setting forth that such person is of good fame, sober life and conversation, and that he has taken the oath of allegiance to our Sovereign Lord the King." If any person holding a license died or removed, the person succeeding in occupation of the licensed house might continue to keep the said inn or public house" on fulfilling the conditions specified.*

Very much was done in the five sessions of the first Parliament to complete the organization of the government, and establish a system which could easily expand as the population increased. Most of the Acts passed by subsequent legislatures were but the complement and outgrowth of those passed at Newark.

TORONTO SELECTED AS THE CAPITAL.

And now it became necessary to change the seat of government. The fort at Niagara held by the British at the close of the war was found to be within the boundary of the United States as settled by the Treaty establishing the independence of that country, and was surrendered to the United States government. The guns of the fort commanded the ground on which the U. Canada Legislature had met. It is said that Governor Simcoe regarded London as for many reasons the best place for the permanent government establishment † but it was then almost inaccessible, and although there was not a single house on the ground on which Toronto now stands, he wisely selected that as the most convenient site then to be found. Lord Dorchester, the Governor-General, urged that Kingston should be chosen, but Governor Simcoe thought that place was too close to the United States. "The country near the ruins of the old French Fort Rouille, was an unbroken forest, but a peninsula of land ‡ in a semicircular form, shuts out the troubled waters of the vast lake from a beautiful bay of two miles in length by one in its greatest width . . . The choice of this site was probably caused by the singular felicity with which the French had

*34 Geo. III. c. 12.

†Alexander's Bonnycastle, p. 40.

‡ Alexander's Bonnycastle, p. 38.

uniformly chosen their principal stations, and by the fact of its being removed by the whole breadth of Lake Ontario, at that part upwards of thirty-six miles wide, from the shores of the American Union. It also commanded a great portage of about the same length, by which Lake Simcoe communicated with Penetanguishene and the Georgian Bay of Lake Huron, whilst the intervening country between these lakes possessed a fertile and virgin soil." At that time, it should be remembered, Upper Canada was only partially opened from the banks of the junction of the Ottawa and St. Lawrence to Kingston and the Bay of Quinte; the French occupied partially the shores of the Detroit; there were a few farms along the Niagara river, and a village or two along the shore of Lake Ontario, from Niagara towards Burlington Bay.* Governor Simcoe appears to have contemplated the removal for some time, as in 1793 the ground was occupied by troops drawn from Kingston and Niagara, and the name changed from Toronto to York.† He dwelt during the summer of that year and the following winter in a canvas house, which he imported expressly for the purpose."‡ It is said that this at one time belonged to the famous navigator, Captain Cook. The Parliament Buildings erected in the eastern part of the present city, were "humble but commodious structures of wood." Gourlay, describing the city some years after, said§ "the town plot more than a mile and a half in length, is laid out in regular streets, lots and squares, having the garrison and the site of the Parliament House on its two wings, and a market near the centre." The growth of the town was very slow at first. Bonnycastle says|| "it was long ere York reached even the extent of a large village; for in 1826 I saw it consisting of one long straggling street and about 2,000 inhabitants. In 1837, when I last lived in it it was a well-built city with 11,000 people dwelling where General Simcoe on his first landing to explore its dense forest found only an Indian wigwam or two. It is now a splendid place, containing (in 1847) 23,000 inhabitants, and is lit with gas."

Dr. Scadding, in his work "Toronto of Old," gives a racy description of the town in its earlier days, and of its growth for some years. On November 3rd, 1803, Governor Hunter issued a proclamation establishing and appointing a public open market to be held on Saturday in each and every week of the year within the said town of York. In 1824 the market square was, by the direction of the county magistrates closed in on the east, west, and south sides with a picketing and oak ribbon. The digging of a public well in 1823 "was an event of considerable importance in the town." The whole cost of well and pump was £28 1s 3d. The stocks set up in the market place were used for the last time in 1834. Upper Canada College, then called Minor College, was founded by Sir John Colborne in 1829. In 1833 the wooden market was replaced by a brick structure. In 1834 a gallery that ran round this building being crowded when an election meeting was held gave way. Threespersons were killed and several severely injured.

"During the war it was found expedient by the civil authorities to interfere in some degree with the law of supply and demand.¶ The magistrates in Quarter Sessions assembled agreed in 1814 upon the following prices as, in their opinion, fair and equitable to be paid by the military authorities for provisions:—flour, per barrel, £3 10s.; wheat, per bushel, 10s.; pease, per bushel, 7s. 6d.; barley and rye, the same; Oats, per bushel, 5s.; hay, per ton, £5; straw, £3; beef, on foot, per cwt, £2 5s.; slaughtered, per lb., 7½d.; pork, salted, per barrel, £7 10s.; per carcass, 7½d. per lb.; mutton, per lb., 9d.; veal, 8d.; butter, 1s. 3d.; bread, per loaf of four pounds, 1s. 6d." These prices were high, but it does not appear that the magistrates had any power to enforce their opinion as to what prices should be.

The Second Parliament passed an Act for the more easy barring of dower: an Act for the regulation of fines; an Act authorising the persons then practising law to form a law society, and providing that none but members of the society should thereafter be permitted to practise; an Act to ascertain and establish the boundary lines of the different townships; an Act to extend the provisions of the Act for making certain marriages

* Alexander's Bonnycastle, p. 39.

† Bouchette's B. N. America, vol. 1, p. 80.

‡ p. 41.

† Toronto of Old, p. 21.

§ Statistics, p. 133.

¶ Toronto of Old, p. 43.

valid, which authorized regularly ordained ministers of any congregation of persons professing to be members of the Church of Scotland, or Lutherans, or Calvinists to solemnize marriage on condition that each minister appeared before the justices of his district in Quarter Sessions assembled, with seven respectable members of his congregation who would declare that he was their minister or clergyman, produced proofs of his ordination, constitution or appointment, took the oath of allegiance, and obtained a certificate under the seal of the court; an Act authorising the town wardens to apprentice orphans and deserted children; an Act for the further introduction of the criminal law of England which authorized the substitution of whipping or of a pecuniary penalty for burning on the hand; and a number of acts amending or continuing those passed in previous sessions. An Act* was also passed for the better division of the Province.

EARLY ROAD-MAKING AND BRIDGE-BUILDING.

Although the law provided that the roads should be made by statute labour, the progress in road-making was painfully slow. The large tracts of land granted to the officers of the disbanded regiments and to the principal U. E. Loyalists, and the large tracts afterwards granted to the members of the Executive Council and others, contributed little to the construction of roads. Many of the early settlers too were not of industrious habits. Governor Simcoe proposed to construct Yonge Street to the Georgian Bay, and Dundas Street to London, and by the Kingston Road to open a thoroughfare to Lower Canada and he set the troops to work on Yonge Street. But even on this comparatively little work was done. Dr. Scadding says "the perils and horrors encountered every spring and autumn by travellers and others in their ascent and descent of the precipitous sides of the Rosedale ravine, at the point where the primitive Yonge Street crossed it, were a local proverb and by-word, perils and horrors ranking for enormity with those associated with the passage of the Ronge, the Credit, the Sixteen, and a long list of other deeply ploughed watercourses intersected of necessity by the two great highways of U. Canada. The ascent and descent of the gorge were here spoken of collectively as the Blue Hill. . . . The waggon track passed up and down by two long wearisome and difficult slopes, cut in the soil of the steep sides of the lofty banks. After the autumnal rains and during the thaws at the close of the winter the condition of the route here was indescribably bad. At the period referred to, however, the same thing for many a year was to be said of every rod of Yonge Street throughout its thirty miles of length. Nor was Yonge Street singular in this respect. All our roads were equally bad at certain seasons every year."† Troops were also set to work on the Dundas road, and from what Dr. Scadding relates of their mode of proceeding it is evident that the military were not very skilful roadmakers. He says the work of opening Dundas Street near the Lake Shore, as well as further on through the forest, was first undertaken by a detachment of the regulars under the direction of an officer of the Royal Engineers. The plan adopted, we are told, was first to fell each tree by very laboriously severing it from its base close to the ground, and then to smooth off the upper surface of the root or stump with an adze. As this process was necessarily slow, and after all not likely to result in a permanently good road, the proposal of Colonel, then Lieutenant Denison, to set his militia men to eradicate the trees bodily was accepted—an operation with which they were all more or less familiar on their farms, and in their new clearings. A fine broad open track ready, when the day for such further improvements should arrive, for the reception of plank or macadam, was soon constructed.‡

Of the proposed Dundas Street, Gourley says (vol. 2 pp. 310-11):—"He (Governor Simcoe) had no money wherewith to open this; but his purpose was to grant its margin to actual settlers on condition of each making good the road as far as his grant extended. Settlers sat themselves down at different parts along the line of this proposed grand thoroughfare and fulfilled their engagements, only to be grievously disappointed. The moment that Simcoe was recalled the ungranted lands along Dundas Street were seized by people in power, and the actual settlers up to 1817 remained in little communities cut

* 38 Geo. III., c. 5.

† Toronto of Old, p. 413.

‡ Ibid pp. 371-2.

off from each other and unable to make good the grand communication, the completion of which had at the outset promised them such advantages and tempted them so far into the wilderness. . . . Only think of a dozen or score poor men going into the woods fifty or sixty miles from connected settlement, expending their labour for four or five years clearing farms and erecting buildings, in the assurance that before long they should have an outlet to market and a reward for extraordinary exertions and privations. Only think of these people, after five or six years' perseverance and hope, being suddenly chilled with disappointment and left imprisoned in the woods."

McTaggart, writing of the state of Canadian roads so late as 1829, said, "There are few roads, and these are excessively bad and full of mud-holes, in which if a carriage fall there is great trouble to get it out again. The mail coaches or waggons are often in this predicament, when the passengers instantly jump off, and having stripped rails off the fence, they lift it up by sheer force. Coming up brows they sometimes get in, the horses are then taken out and yoked to the stern instead of to the front, and it is drawn backwards." * "Old settlers," we are told, "used to narrate how, in their first journey from York to the Landing, they lowered their waggons down the steeps by ropes passed round the stems of saplings, and then hauled them up the ascent on the opposite side in a similar way."

The Legislature endeavoured in several ways to bring about a better state of things. The statute labour and the small aid which the Sessions were authorized to give in cases of special importance having been found insufficient, the Legislature in 1810 voted £2,000 to defray the expenses of amending and repairing the public highways and roads, laying out and opening new roads, and building bridges. This amount was probably expended through commissioners named in the Act. In the same year they made a special appropriation for the construction of a bridge across the Grand River. In 1811 they appropriated £3,450 to making and repairing roads and bridges. In 1812 they made an appropriation, the amount of which is not stated, and passed "an Act to prevent damage to travellers on highways in this Province." This required all persons travelling on the public roads to turn to the right, and required the owners to attach bells to sleighs. An Act of 1812 also provided that when any road laid out under authority of law was not approved of by the justices in session, the charges of the surveyors should be paid by the parties who made the application. The war of 1812 prevented any more being done in this direction for some years, and at an extraordinary session, held in the summer of that year, an Act was passed, requiring the road commissioners to return to the Treasury any of the money granted in the previous session that was unexpended.

In 1816 the Legislature again turned its attention to the highways, and amended the Act to prevent damage to travellers, and £513 12s 6d was voted to reimburse amounts expended by certain commissioners. By another Act passed the same session £21,000 was given to mend the highways and bridges, which probably were in a bad condition. In 1819 an Act, † to which we have already referred, was passed, fixing the amount of statute labour to be performed by each person, the rate 2s 6d per day's labour, at which it may be commuted and the rate to be paid by lands not included in the assessment roll. In 1821 ‡ £200 was granted towards opening a road from Richmond, on the Ottawa river, to Kingston. In 1828 Acts were passed to make valid such things as were done by surveyors who had been suffered to serve beyond a year without being re-elected or sworn, and to determine how the road between Ernestown and the Gore of Fredericksburg, about which the magistrates differed, should be kept in repair. In 1830 § £25 was granted towards opening a road from the river Aux Perches in the Western to Townsend, in the London District. In 1830 || £13,650 was granted as aid towards repairing roads and bridges. At that time the number of Districts had increased to eleven. The Act specifies the amount to be expended in each district, names the commissioners by whom the money should be expended, and the amount to be expended by each, and describes the section of road on which each commissioner should expend the amount entrusted to

* Three Years in Canada, p. 205.

‡ 1 Geo. IV, c. 25.

† 59 Geo. III, c. 8.

§ 11 Geo. IV, c. 30.

|| 11 Geo. IV, c. 14.

him. In 1831 £20,000 to be raised by Provincial debentures was granted for a like purpose, to be expended in a similar manner. To such an extent up to that time did the Legislature undertake and perform duties really municipal in their character.

The Act 50, Geo. III, c. 1. provided that no road should thereafter be more than sixty-six or less than forty feet in width.

The Legislature sometimes made special grants for bridges. We have already mentioned the first special grant, which was for a bridge across the Grand River, and was made in 1809. An additional grant for that work was made in 1810. In 1824 a sum of £250 was granted, of which £150 was to be expended in improving the road in the Township of West Gwillimbury, and £100 in aid of the resources of the inhabitants for the erecting of a bridge across the river Trent, at the foot of Rice Lake. In the same year an Act was passed authorizing the justices of the district of Johnstown to raise a loan of £2,500, wherewith to erect a new court house or repair the old one, and to erect new bridges over Yonge and Fish Creeks. In 1826 the Legislature granted £1,200 for making and repairing certain roads and bridges named in the Act.* In 1827 an Act was passed incorporating a number of persons, and authorizing them to build a bridge over the Cataraqui, from Kingston to Point Frederick, and authorizing them to collect tolls as soon as the justices in General Sessions certified that the bridge was complete. The Act provided that there must be a "draw" of at least 18 feet in length in this bridge. The number of shares was not to exceed 240, of £25 each. In 1827 £100 was granted in aid of a bridge over the Otanabee, in the district of Newcastle.

The total legislative appropriations in aid of the making and repairing of roads and bridges up to year 1831 inclusive were:

	£	s	d		£	s	d
1804	1,000	0	0	1818	750	0	0
1808	1,600	0	0	1821	200	0	0
1809	1,600	0	0	1826	1,200	0	0
1810	2,000	0	0	1827	100	0	0
1811	3,450	0	0	1830	13,650	0	0
1814	6,000	0	0	1830	1,183	9	8
1815	20,500	0	0	1831	20,000	0	0
1816	513	12	6	1831	75	3	1
1816	21,000	0	0				

The whole amount was inconsiderable when compared with what the work absolutely necessary even at that time must have been.

In 1829 the first Act to incorporate a private company for the purpose of making a turnpike road † was passed. This road was to be built in the County of Halton, and the company was to be known as the Dundas and Waterloo Turnpike Company. The capital was to be £25,000. The company was clothed with all necessary powers, including that of erecting gates not less than nine miles apart, and charging tolls at or under the rates fixed by the Act.

The government afterwards adopted another mode of promoting the construction and improvement of roads and bridges. In 1833 ‡ an Act passed authorizing the government to borrow £1,500 on debentures, expend that amount, through commissioners in building a bridge at Brantford, and through commissioners to levy tolls which should be applied after payment of expenses to the liquidation of the debt. In the same year § the government were authorized to borrow £4,000, and expend it in building a bridge across the Trent, near its mouth, in the like manner and on the same conditions. In the same year £20,000 to be raised on debentures was appropriated for the improvement of roads and bridges throughout the Province, the amount to be expended in each of the eleven districts, and by each of the commissioners named on each road section being fixed by the Act.

In this year also Trustees were appointed to take charge of the improvement of Dundas Street, Yonge Street and the Kingston Road within the Home District. The

* 7 Geo. IV, c. 25.

† 10 Geo. IV, c. 15.

‡ 3 Will. IV, c. 31.

§ 3 Will. IV, c. 34.

Receiver-General was authorized to raise a loan of £10,000 from such persons or body corporate as may be willing to advance the same on the credit of the tolls to be levied under authority of this Act, and to pay over the amount when received to the trustees named, who were to expend £4,000 on Yonge Street, commencing at the northern limit of the town of York, £1,500 on Dundas Street and £2,000 on the Kingston Road. The remaining £500 was to be used in paying the first year's interest. The trustees were authorized to erect gates and collect tolls. The toll-gate system then introduced continues to the present day.

In 1834 £25,000 to be raised on Provincial debentures was appropriated for the improvement of roads and bridges,* and Acts were passed making further provision for the expenditure of the money voted in 1833. In 1836 an Act was passed authorizing the Receiver-General to raise £35,000 on the security of the tolls, to be levied on the roads named. Of this £15,000 was to be expended by commissioners on Yonge Street, £10,000 on the Kingston Road, and £10,000 on Dundas Street. In 1836 £50,000 was granted, to be expended on the roads and bridges in all the districts of the Province, then numbering twelve, as the Act directed. In 1836 † commissioners were authorized to expend on the West Gwillimbury road and bridge £1,000, raised on credit of the tolls, to erect toll-gates and collect tolls. In 1837 ‡ the Receiver-General was authorized to raise £100,000 on the security of the tolls collected on the roads of the Home District, of which £60,000 was to be expended for completing Yonge Street to Holland Landing, or such other point as the trustees may determine, £20,000 in continuing the improvement of the Eastern road to the eastern limit of the Home District, and £20,000 for the improvement of the western road to the western limit of the Home District. Of the money granted for the west road £3,000 was to be used in macadamizing the Front road, from the mouth of the Humber, and of the money for the east road £5,000 was to be expended in making a road to Resorville, £500 more was to be advanced for repairing the West Gwillimbury road, and if the tolls were not sufficient to pay the interest and sinking fund, the deficit would be raised by assessment of the district. In the same year § £2,500 was raised on security of tolls for improving Hurontario street, and trustees were appointed to expend the money and collect tolls. Authority || was given to raise £35,000 on security of the tolls to be expended on the main road from Hamilton to Brantford, and to appoint trustees. Authority ¶ was given to raise and expend £25,000 on the same conditions and in the same manner, in the construction of a macadamized road from Dundas to Waterloo in the Gore District; £30,000 ** for macadamizing the road from Brockville to St. Francis, Charleston, Lyndhurst, Beverly and Perth, in the district of Johnstown; £30,000 for macadamizing the road from Kingston to Napanee; £30,000 for macadamizing the main road from Queenston to the west boundary line of Grimbsy in the Niagara district. In all these cases the credit of the Province was pledged to the creditors to make good the deficiency. If this had not not been done the sale of the debentures would have been difficult in more than one case. The extraordinary growth of this system of making and repairing roads, at that time is very remarkable. In all the Acts of 1836-7 the preamble declares that "the Act to raise a sum of money (on this system) to improve certain roads in the vicinity of the town of York had fully realized the advantages anticipated. The evils of the toll-gate system were then either not understood or not dreaded. Only the advantage of getting some of the greater roads made passable was thought of, and the terms seemed easy.

About the same time a number of bridges were built with money raised in a similar manner. A loan of £1,250 to build a bridge over the Grand River, at Dunnville, and a loan of £1,500 for a bridge over the same river at Paris were authorized. A company was incorporated in 1836 to build a bridge over the Grand River at Cayuga. One provision of the charter was that the amount collected as tolls in any year should not exceed 20 per cent. of the cost of the structure. In 1837 an Act was passed authorizing a loan of £1,500, on Provincial security, the amount to be expended by commissioners in building a bridge over the Thames at Chatham. The commissioners were to levy tolls and pay the receipts over to the Receiver-General. The bridge over the Cataragui, erected

* c. 38.
|| c. 77.

† 4 Will. IV, c. 48.
§ c. 78.

‡ 6 Will. IV, c. 28.
¶ c. 79.

§ 7 Will. IV, c. 76.
** c. 80.

by a company chartered in 1827 appears to have been for some years the only toll bridge in the Province.

EARLY RAILWAY CHARTERS.

In 1834 a company was incorporated * to build a tramway from Rice Lake to Lake Ontario, near Cobourg, capital £40,000, and a company to construct a tramway "on and over any part of the country lying between the town of London and Burlington Bay, and to the navigable waters of the River Thames, and also to Lake Huron," capital not to exceed £100,000, with a right to increase to £200,000. In 1835 a company was incorporated to build a tramway "on and over any part of the country lying between the town of Hamilton in the District of Gore and Port Dover in the District of London, capital £40,000, with right to increase to £100,000 if the work was extended. The Erie and Ontario R. R. Company was incorporated in 1835, nominal capital £75,000; the Toronto and Lake Huron R. R. Company in 1836, nominal capital £500,000; the Burlington Bay and Lake Huron R. R. Company, nominal capital £350,000; and the Niagara and Detroit R. R. Company. In 1837, an Act † was passed, authorising the Government to borrow £100,000 and pay it over to the Toronto and Lake Huron R. R. Company in aid of their work, £37,500 to be paid when it was known that the company had paid in and expended £12,500, and afterwards £3,750 to be paid so often as the company proved that £1,250 had been paid in by the stockholders and expended until the whole loan was exhausted. An Act passed the same year ‡ authorized the London and Gore R. R. Company to increase its capital stock to £500,000, and provided that when the company had received from its stockholders and expended £1,250 it should receive Government debentures to the amount of £3,750, and as often afterwards as the company had expended £250 paid by the stockholders it should receive debentures to three times the amount until the whole amount of the debentures equalled £200,000. Another Act § provided that if the railroad failed to pay the interest on the debentures in full, any amount necessary to make up the whole interest accruing, should be raised by assessments in the districts of Gore and London and in the Western district. By an Act || a loan of £10,000 to the Cobourg R. R. Company in Provincial debentures was authorized. In this case no debentures were to issue until £15,000 stock had been subscribed and £5,000 had been paid in and expended. If default were made in payment of interest the Government were authorized to take possession of the road.

These roads were to be all tramways with a single or double track of wood or iron. The companies were authorized to erect toll-houses and to collect tolls and dues from passengers and for merchandise.

HARBOUR IMPROVEMENTS.

The construction of harbours on the great lakes was found to be so necessary, that in 1827 the Government constructed a harbour at the mouth of the Kettle Creek in the London district. The estimated cost was £3,000, and authority was given ¶ to raise that amount by debentures, expend it through commissioners, and levy tolls to cover interest on cost, repairs, and expenses. In 1828 ** authority was given to William Chisholm "to erect a harbour at Sixteen Mile Creek," on Lake Ontario, with piers, wharves and other structures, and to charge tolls on all merchandise shipped or landed there. In 1829 a joint stock company was chartered to construct a harbour at Cobourg. As in the preceding case the maximum rates of toll were fixed by the Act. In the same year a company was chartered †† to construct a harbour at Port Hope. In 1831 the Niagara Harbour and Dock Company was incorporated. In 1831 ‡‡ £2,500 was lent to W. Chisholm on security of the harbour works and tolls, to enable him to complete the construction and ††‡ £3,500 was voted for the completion of the harbour at Kettle Creek, which was a government work. Port Dover Harbour Company and Port Burwell Harbour Company,

* 4 W. IV. c. 28.

§ 7 Wm. IV. c. 62.

** 9 Geo. IV. c. 19.

† 7 Wm. IV. c. 60.

|| 8 Geo. IV. c. 18.

†† 10 Geo. IV. c. 12.

‡ 7 Wm. IV. c. 61.

¶ 7 Wm. IV. c. 74.

‡‡ I. Wm. IV. c. 25.

were incorporated in 1835. £3,000 was lent to the Cobourg Harbour Company, and £2,000 to Port Hope Harbour Company in that year. Twenty Mile Creek Harbour * Company was incorporated in 1833, and £2,000 was granted "for the construction of works to improve and preserve the harbour of York. In 1834 a company was incorporated to construct a harbour at the mouth of the River Credit. In 1837, £1,500 borrowed on Provincial credit was lent to this company. Acts were passed in 1835 to incorporate the Stoney Creek Harbour Company, and the Grimsby Breakwater, Pier and Harbour Company; in 1837, to incorporate the Grafton Harbour Company, the Colborne Harbour Company, and the Port Darlington Harbour Company, and power was given to the Canada Company to erect a harbour at Goderich on Lake Huron. A company was incorporated to construct a railroad (tramway) from London to Davenport, and to construct a harbour at the mouth of Cat Fish Creek. A loan of £1,000 raised on Provincial debentures was given to the Louth or Twenty Mile Creek Harbour Company, and a loan of £3,500 to the Port Dover Harbour Company.

GAOLS AND COURT HOUSES.

The construction and improvement of harbours have not always been regarded as works of a municipal character. The construction and maintenance of court houses and gaols have in most cases been so regarded. In Upper Canada, as we have seen, the duty of erecting such buildings and providing for their cost and maintenance was imposed upon the justices of each district in Quarter Sessions assembled. The amount which they were authorized to raise by the tax not exceeding a penny in the pound, according to the assessment law already described, was not in most cases sufficient to meet these and other necessary expenditures. In 1815 the Legislature voted† £6,000 to provide for the rebuilding and repair of certain gaols and court houses. Of this £2,000 went to the Western district, £2,000 to the London district, £2,000 to the Niagara district, and £500 to the district of Newcastle. As the Act does not appear in the statute book we cannot tell whether any conditions were attached to those grants. In 1816, an Act was passed to authorize and provide for the building of a gaol and court house in the town of York. Only the title appears in the statute book. An Act passed in the same year authorized the erection of a gaol and court house in the district of Gore, then cut off as a new district, but no special provision was made for the purpose, so when the erection of a gaol and court house in the Bathurst district was authorized in 1823 only the ordinary assessments were authorized. In the same year the Justices of the London district in Quarter Sessions were authorized to borrow £1,000 in aid of the funds to finish the gaol and court house, and the Treasurer was required‡ to set £150 apart each year for interest and sinking fund. The magistrates of the Home district were authorized§ to borrow £4,000 on the credit of the district for a like purpose. The Justices of the Midland district found the amount they had been empowered to borrow insufficient, and they were authorized to borrow £1,000 more on the like terms. In 1824 the Justices of the district of Johnstown wanted to erect a new gaol and court house or repair the old one, and to erect new bridges over Yonge and Fish creeks, and they were authorized|| to levy for not more than five years an additional rate not exceeding one penny in the pound, to be applied for those purposes. The Justices of the Home district were authorized to borrow £2,500 in 1825, but no special assessment was authorized. The court house and gaol of the London district having been destroyed by fire, an Act was passed providing that a town should be surveyed and laid out within the reservation theretofore made for the site of a town in the townships of London and Westminster in the county of Middlesex, and that in the said plan a place of not less than four acres should be designated so reserved for the purposes of a gaol and court house. Commissioners were appointed to erect a suitable building of brick or stone, and to raise the money necessary; the justices in sessions were authorized and required to levy an

* 9 Geo. IV. c. 19.

§ 4 Geo. IV. c. 35, sec. 3.

† 10 Geo. IV. c. 12.

‡ c. 24.

§ 7 Geo. IV. c. 14.

additional rate of one-third of a penny in the pound, until the loan of £4,000 which the Commissioners were authorized to make was discharged, principal and interest. In 1827 the justices of the district of Gore were authorized to borrow £4,000 on the credit of the district. In the same year commissioners were appointed to erect a gaol and court house in the Eastern district, and to borrow £4,000 on the credit of the district, and the magistrates were authorized to levy an additional rate of one halfpenny in the pound until the debt was discharged. Authority to increase the rate of taxation was seldom granted, probably was seldom sought. When authority was given in 1830 to the justices of the Eastern district to borrow £3,500 to be expended by commissioners in building a gaol and court house at Cornwall, and in 1831 the magistrates of the Newcastle district were authorized to spend £6,000 on a gaol and court house, and to borrow £2,500 of this amount on the credit of the district, and when in the same year the county of Prince Edward was erected into a separate district, and the building of a gaol and a court house at Picton was authorized, no addition to the rate of taxation was permitted; but in 1835, the justices were authorized to levy an additional one halfpenny in the pound for three years. In 1837, the county of Oxford was erected into a district named Brock, and the justices were authorized to borrow £6,000 to build a gaol and court house at Woodstock, under supervision of a committee of their own body, but no increase in the rate of taxation was permitted. In the same year the county of Hastings, the county of Simcoe, and the county of Norfolk (by the name of the district of Talbot) were erected into separate districts under similar conditions. In all cases the rate of interest on the loans so authorized was not to exceed six per cent.

ELEMENTARY EDUCATION.

It was not until the work of organization had made considerable progress that any attempt was made to establish a school system, and the first attempts were very feeble. In 1807 an Act * was passed, authorizing the payment out of any money raised by authority of Parliament of £800 a year for the establishment of public schools. One public school was to be established in every district; the places at which the schools should be kept were named—Sandwich, Niagara, York, Kingston, such place in the township of Hamilton, such place in the township of Augusta, and such place in the township of Townsend as the trustees may think fit. The Lieut.-Governor was to name the trustees in each district, and they were to select the teacher, who was to receive a salary of £100, by Lieut.-Governor's warrant. The trustees of the London district reported that they could find no pupils in Townsend, and in 1808 they were authorized to select a place for the school as they thought best. A society was formed in England "for providing the education of the poor in Upper and Lower Canada," and in 1815 † an Act was passed authorizing the subscribers to meet in Kingston, organize by electing a president, secretary, treasurer and six trustees, who should be a body politic, under the name of the "Midland District School Society," with all the usual powers. It was provided that no person should be teacher or trustee who was not a British subject.

In 1816 ‡ an Act was passed to establish common schools. The preamble declared that it would be "conducive to the happiness of the inhabitants and general prosperity of the Province to encourage the education of youth in common schools." It was provided that £6,000 should be paid annually out of the Provincial Treasury for this purpose. This amount was to be divided amongst the districts as the Act prescribed. The Act provided that the inhabitants of any township, village, or place might meet and make arrangements for establishing a school, and when they had built or provided a school-house, engaged to furnish at least twenty scholars, and provided in part for the payment of a teacher they might after due notice elect three trustees, who should have power to employ a teacher and make rules for the government of the school. All engagements made by the parties getting up the school might be enforced by law. A Board of Education, consisting of not less than five members was to be appointed for each district by the Lieut.-Governor. To these

* 47 Geo. III. c. 6.

† 55 Geo. III. c. 18.

‡ 56 Geo. III. c. 36.

the trustees should report once in three months. The trustees had power to superintend the schools of the district, and were required to report annually to the Governor for the information of the Legislature. They were also to apportion amongst the schools the money granted for their district, provided that no allowance to any school should exceed £25 a year, and that no allowance should be made where the trustees did not report to the Board. This may fairly be considered the foundation of our common school system.

In 1819* a district school was established in Gore, and it was provided that an annual public examination should be held in all such schools; that the trustees of district schools should make an annual report to the Lieut.-Governor; that the teacher should receive no more than £50 from the treasury if in any case he had not more than ten scholars; and that in order "to extend the benefit of a liberal education to promising children of the poorer inhabitants, the trustees of each school should have the power of sending scholars, not exceeding ten in number, to be taught gratis at the respective district schools." £6,000 was found to be more than the Province could afford to pay for the support of the common schools, and in 1820 † the amount was reduced to £2,500, which was "to be equally portioned to the teachers of the several common schools," provided that no more than £12 10s. be paid to any teacher.

In 1823 a district school was established in the district of Ottawa, to be kept at Longueil, in the county of Prescott. It was found necessary in the same year to pass a special Act providing for the payment of arrears due for the support of the common schools in the Niagara district, some of the money apportioned to that district having been misappropriated.

‡ In 1824, because, as the preamble to the Act ‡ declared, it would "greatly tend to advance the happiness of society to disseminate moral and religious instruction amongst the people," it was enacted that for the benefit of all classes of His Majesty's subjects, and for the encouragement of Sunday schools, and for affording the means of moral and religious instruction to the more indigent and remote settlements, "there should be paid annually an additional sum of £150, which the Provincial Board should expend in purchasing books and tracts to be distributed amongst the district Boards, and by them to be distributed for the use and encouragement of Sunday schools and for the benefit of remote and indigent settlements. This Act extended the benefits of the common school system to Indians and a share in the distribution of books. It also provided that no teacher should receive any of the Provincial grant until he had undergone an examination before the District Board, and had obtained from it or at least one member of it, a certificate of competency. In 1830 subscriptions having been raised, an Act was passed "to incorporate the trustees of the Grantham Academy," in the district of Niagara.

In 1833 § an Act was passed adding £5,650 for each of the years 1833 and 1834, to the amount fixed by the Act of 1820. The Act provided how this sum should be distributed amongst the districts, and also provided that "it should not be lawful for the Board of Education in each district in this Province to pay to any teacher of a common school the annual allowance, unless the trustees of the said school shall make it appear to the satisfaction of the Board of Education that they have made provision for his support, so as to secure him for his services in a sum at least equal to double the amount which may be allowed by the Board of Education." Payment of an additional £5 to the clerk of each Board was also authorized.

In 1834 the Bath School Society was incorporated, and authorized to hold lands and receive subscriptions for the support of an academy in the village of Bath, in the district of Ernestown. In 1835 the Province lent £250 to the Society.

In 1835 the Legislature again granted £5,650 in addition to the amount secured by the Act of 1820 for the support of the common schools, and in 1836 a like sum. In 1837 an Act was passed authorizing the removal of the school of the district of London to the town of London, and the Midland District School Society was incorporated.

* 59 Geo. III. c. 4.

† 60 Geo. III. c. 7.

‡ 4 Geo. IV. c. 8.

§ 3 Will. IV. c. 56.

THE PUBLIC HEALTH.

An Act to establish Boards of Health, and to guard against the introduction of malignant, contagious and infectious diseases in this Province* was passed in 1833. By this the Lieut.-Governor was authorized to appoint health officers in each and every town in the Province, and in such other places as may be deemed necessary. These officers were authorized to enter and examine all premises and, when they thought fit, order the owners to cleanse them. In case of refusal or neglect they might cause the premises to be cleansed at the owner's expense. The Lieut.-Governor in Council was authorized to make rules concerning the entry and departure of vessels and the landing of passengers, and for all disregard of orders and violations of rules penalties were attached. In 1835 the Lieut.-Governor in Council was authorized to appoint three or more persons in each town, and in such other places as might be thought necessary, to be a Board of Health. The officers so appointed had powers similar to those conferred on the health officers by the previous Act, and furthermore were authorized to call to their assistance all constables and peace officers.

PUBLIC CHARITIES.

In 1837 an Act † was passed providing that at "the Court of General Quarter Sessions of the Peace, to be holden in each district after the presentment of their successive Grand Juries recommending the same," it should be the duty of the justices "to prepare plans and estimates for the erection of suitable buildings for the reception and employment of the poor and indigent, and of the idle and dissolute, and to procure or purchase a suitable site whereon to erect the same, and to contract for the erection thereof, provided the expense thereof shall not exceed the sum of £1,000, and also to appoint five inspectors, who shall have the inspection and government of said house, with full power to appoint a master and mistress, and such needful assistance for the immediate care and oversight of the persons received into or employed in that house; which inspectors once every month, and at such other times as occasion may require, shall meet for the purpose of determining the best method of discharging the duties of their office, and at such meetings shall have full power to make such needful orders and regulations for the government of the said house, and to alter the same from time to time, as they may think expedient." The money required for erecting and maintaining these houses was to be raised by a rate assessed and levied by the justices in session, as all other rates were. The justices and the inspectors were authorized to commit to such houses "all poor and indigent persons who are incapable of supporting themselves; all persons able of body to work and without any means of supporting themselves who neglect or refuse so to do; all persons leading a lewd, vagrant, dissolute life, or exercising no ordinary calling or lawful business sufficient to gain or procure an honest living; all such as spend their time and property in public houses to the neglect of their lawful calling." It was also provided that all who were committed to any such house "if fit and able, should be kept diligently employed in labour during their continuance therein, and in case a person so committed or cautioned, shall be idle and not perform such reasonable task or labour as shall be assigned, or shall be stubborn, disobedient, or disorderly, he or she shall be punished according to the rules and regulations made for ruling, governing, or punishing persons there committed." This was a strange commingling of the deserving poor and the depraved and dissolute, a strange combination of relief and punishment, but no nearer approach to a regular system of legal relief for the poor has since been made.

LOCAL MARKETS.

In 1801 a market was established at Kingston ‡ for the convenience of the inhabitants of the Midland district. The Commissioners of the Peace for that district in their court of General Quarter Sessions assembled, were "authorized and empowered to fix upon and establish some convenient place in the town of Kingston as

* 3 Will. IV, c. 48.

† 7 Will. IV, c. 24.

‡ 41st Geo. III, c. 3.

a market where butchers' meat, butter, eggs, poultry, fish, and vegetables should be exposed to sale, and to appoint such days and hours for that purpose, and to make such other orders and regulations relative thereto, as they should deem expedient," to "impose such fines not exceeding twenty shillings, for any offence committed against such rules and regulations as to them in their discretion should seem requisite and proper," one-half to go to the informer and the other to be paid into the hands of the Receiver-General. In 1814, the Commissioners of the Peace for the Home district were authorized to establish a market in the town of York for the same purposes and under like conditions.* In 1817, an Act (amended in 1819) was passed † authorizing the establishment of a market for the district of Niagara, in the town of Niagara. This Act contained provisions similar to those of the other Acts, and provided in addition that the Justices in Session may raise £100 by assessment, for the purpose of building a market house, that the Clerk of the Peace in making up the assessment should insert the names of persons holding town lots, and that each such lot should be rated at £50. In 1818, an Act ‡ was passed, authorizing the Commissioners for the Eastern district to establish a market in the town of Cornwall. In 1822, the Commissioners of the Peace residing in the township of Drummond—at a court of special sessions to be held by them for that purpose—were authorized to establish a market at Perth, for the convenience of the inhabitants of the county of Carleton. In 1831, an Act § was passed "to establish a market, and to establish wharfage fees, in the town of Amherstburg in the Western district." The Act authorized the Justices to erect a public wharf in front of the market place, to make such regulations for its management, and to impose such tolls and fees for its use, as they might deem proper.

Thus for many years nearly all those matters usually regarded as municipal in their character were managed by the Legislature, or by the Justices in Quarter Sessions. Besides the election of township officers, who, when elected, were subject to the control of the Justices in Sessions, and the election of school trustees, the people were allowed to manage nothing directly, except to make regulations respecting the running at large of cattle and swine. There was progress in other directions. The population increased, although slowly at first; districts were divided; new gaols and court-houses were built, the judicial system was developed, and efforts were made to improve the navigation of inland waters, and open new means of communication, but the right to manage their own local affairs in their own way was withheld from the people, and although they were represented in one branch of the Legislature, which for many years discharged the functions of a central municipal council, the powers of the representatives were confined within narrow limits.

THE GOVERNMENT OF TOWNS.

The establishment of a police force in some of the towns became necessary, and in effecting this the first approach was made to the establishment of urban municipalities. Of an Act passed in 1816, "to regulate the police within the town of Kingston," nothing but the title remains on the statute book, as it was repealed by the 4th Geo. IV. c. 30. Its provisions were probably the same as those of the Act || to establish a police in the towns of York, Sandwich, and Amherstburg, passed in 1817. By this the magistrates assembled in Quarter Sessions for each of the districts were empowered to make "such prudential rules and regulations as they may deem expedient relative to paving, lighting, keeping in repair, and improving the streets of the said towns, respectively, regulating the assize of bread, slaughter-houses and nuisances, and also to enforce the said town laws relative to horses, swine, or cattle of any kind from running at large in said towns, and relative to the inspection of weights, measures, firemen and fire companies, provided always that nothing herein contained shall extend or be construed to extend to the regulating or ascertaining the price of any commodities or articles of provision other than bread that may be offered for sale, provided also that such rules and regulations shall not be contrary to or inconsistent with the laws and statutes of this

* 54 Geo. III. c. 15. † 57 Geo. III. c. 4. ‡ 59 Geo. III. c. 4. § 1 Wm. IV. c. 4. || 57 Geo. III. c. 2.

Province." The magistrates were authorized to raise in addition to other assessments £100 a year for purchasing and keeping in repair fire-engines, buckets, and other utensils for the extinguishing of fires and for making any other necessary improvement. The magistrates might impose penalties not exceeding forty shillings for violations of their rules and regulations. A similar Act for establishing the police in the town of Niagara passed in 1819. In 1824 the Justices of the Midland district were authorized to assess £200 in the town of Kingston for such purposes, and in 1826, because the limits of the town and township of Kingston were "irregular and not well defined, and there was much uncertainty as to the names and limits of some of the public streets," the Justices in Session were authorized to define the limits of the town, to define and establish the names and limits of the streets and to lay out new streets. The Act 2nd Geo. IV. c. 13, required the Justices to cause the Clerk of the Peace to make up an account of the money received and expended for such town purposes, and to cause this to be published in a newspaper circulated in the district.

This system of managing towns through the Court of Quarter Sessions must have proved very unsatisfactory, and in 1832 important changes began to be made. In that year an Act* was passed to establish a police in the town of Brockville, which was based upon an entirely different principle. This for the first time gave to the people some control over their own municipal affairs. It provided that there should be in this town a Board of Police, which should be a body corporate and politic in fact and in law by the name of the "President and Board of Police." The members of this body were to be elected. For the purpose of their election the town was divided into two wards, the limits and bounds of which were stated. Each ward was to elect two members of the corporation. The candidates must be freeholders or householders who each had paid at least two pounds rent for the house in which he had resided for one year. The electors were those who were rated on the assessment roll, and who possessed a freehold estate within the ward, or were tenants who having been so assessed, had paid three months' rent for the premises within the ward in which they resided at the time of election, at the rate of three pounds per annum, which residence and payment of rent were for the three months immediately preceding the election. A fifth member of the board was appointed by the concurrent voice of any three of the members elected, and was required to possess the same qualifications as the other members. If three of the members could not agree as to the choice of a fifth, then they were to issue their precept to the sheriff of the district after the first election, and "to any one of the bailiffs so to be appointed, as aforesaid, after every subsequent election, requiring him to appoint some proper time and place within the said town, giving forthwith eight days' notice thereof, and then and there proceed to the election of such fifth member of the corporation by the electors of the said town generally." The five members within ten days elected one of their number President, and for every refusal or neglect to "qualify," a penalty of ten pounds may be imposed. The Act contained provisions as to the time, place and manner of holding the elections, and the manner of filling by a new election any vacancy that may occur. The corporation thus created was authorized "from time to time to establish such ordinances, by-laws and regulations as they may think reasonable, in the said town to regulate and license victualling houses and ordinaries, where fruits, victuals and liquors, not distilled, should be sold to be eaten or drunk in such houses or groceries; to regulate wharves and quays; to regulate the weighing of hay and measuring of wood; to regulate carts and cart-men; to regulate slaughter-houses; to prevent the firing of any guns, muskets, squibs and fire-balls, or injuring or destroying trees planted or growing for shade or ornament in the said town; to prevent the pulling down or defacing of sign boards; or inscribing or drawing any indecent words, figures, or pictures on any building, wall, fence, or other public place; and generally to prevent vice and to preserve good order in the said town; to enter into and examine all dwelling-houses, warehouses, shops and yards and outhouses to ascertain whether any such places are in a dangerous state with respect to fires, and to direct them to be put in a secure and safe condition; to appoint

* 2 Wm. IV. c. 17.

fire wards and fire-engineers; to appoint and remove firemen; to make such rules and by-laws as may be thought expedient for the conduct of such fire companies as may be raised with the sanction of the said corporation; to compel any person to aid in the extinguishment of any fire; to require the inhabitants to provide and keep fire-buckets and scuttles, and ladders to their houses; to stop, or authorize any other person to stop, anyone riding or driving immoderately in any street, or riding or driving on any sidewalk, or to inflict fines for any such offence; to regulate the assize of bread; to prevent, abate, and remove any nuisances; to restrain or prevent any horses, cattle or swine from running at large; to prevent and remove encroachments in any streets, and to make such rules and regulations for the improvement, good order and government of the said town as the said corporation may deem expedient, not repugnant to the laws of this Province, except so far as the same may be virtually repealed by this Act. To provide for the expenses of this new government, and to provide a fund for the purchasing of any real estate for the use of the town; for procuring fire-engines, aqueducts, and a supply of pure and wholesome water; for lighting, flagging and repairing the streets; and for all other purposes deemed expedient and necessary by the said corporation for the welfare and improvement of the said town, they were authorized "to lay an assessment annually upon the persons rated or liable to be rated upon any assessments for property in the said town not exceeding two pence on the pound, exclusive of the sum such persons may be rated for in and upon any other assessments of this Province." The mode of assessing, levying and collecting was provided. The corporation was authorized to appoint from time to time, and at their discretion remove, a surveyor of streets for the town, a clerk and assessor or assessors, a bailiff or bailiffs, a collector or collectors, a treasurer and such other officers as they may require, assign the duties and fix the salary or allowances of each, and take reasonable security whenever they thought necessary. The corporation was also authorized to alter the names of streets, to direct the street surveyor to lay out, mark and open any street, of such width as they may deem proper in any part of the town, to cause any street already laid out to be opened, altered or extended whenever they deemed that the public good required this to be done; to remove and pull down any dwelling-house, out-house, shop, store, or any other building, fence, wall or erection whatever. The owners of the land taken, or erections removed, were to be paid such compensation as may be agreed upon, or if no agreement could be made, such as may be awarded by a jury of five, "struck" in the way prescribed by the Act, the verdict of a majority of the jurors to be binding. The corporation was also clothed with all the powers as to making and amending streets within the town which the law had previously given to Justices of the Peace. These powers seem to have been very large, but no power to establish a police force was given. All that related to health remained under the control of Provincial Health Officers, and this Act * expressly provided that it "should not extend or be construed to extend to authorize the Board of Police to purchase any lands for a market in the said town, or to fix upon any site for a market." In the following year (1833) an Act was passed to establish a market in the town of Brockville. The Act described minutely the metes and bounds of the piece of land on which the market should be held, but it authorized the Board of Police, or as it is called in this Act, the corporation of the town of Brockville, to fix upon and to appoint such days and hours for the purposes of selling butchers' meat, butter, and other articles, and make such rules and regulations relative thereto as they may deem expedient, and to attach penalties to the violation of such regulations.

This poor pretence of regarding such corporations as mere Boards of Police was kept up for some time. Hamilton was the next town in which a Board of Police was created. The town was divided into four wards † and each ward elected one member of the board; the four elected a fifth, and the five elected a president. The qualification of the electors was different from that of the electors of Brockville. The electors were those who owned freehold property in the ward, and householders who had resided within the ward and "paid within one year next before the election one year's rent for their

* Section 26.

† 3 Wm. IV. c. 19.

dwelling-houses at the rate of five pounds per annum or upwards in each case. The manner of holding the election was the same as in Brockville. If an election was controverted, the sheriff was to hold a scrutiny, summon witnesses, take evidence on oath, and determine upon the validity of the election. After the Police Board had been completely organized, such scrutiny was to be held by the Board of Police, the member whose election was impugned being excluded. The board were authorized to appoint and remove officers, and make such by-laws, orders and regulations for the good government of the town as they may deem expedient, and were clothed with the powers respecting the making or amending streets, which the justices in sessions had previously exercised. Such special power for laying out and opening streets, and removing erections as were given to the Brockville Board were not conferred by this Act. It was provided that persons holding land within the limits of the town should not thereafter be permitted to lay out or extend any street less than 66 feet in width. The Board were authorized to lay an assessment annually upon persons liable to be rated upon any assessments for property in the town not exceeding fourpence in the pound, exclusive of the sum such persons may be rated for upon any other assessments. The money so raised was to be expended in "purchasing real estate for the town, procuring fire-engines, aqueducts and a supply of pure and wholesome water, for lighting, paving, flagging and repairing the streets, "and all other purposes deemed expedient and necessary by the corporation." The Board were also authorized to establish a market "in such place within the town as the Justices of the Peace for the district of Gore should determine at a General Quarter Sessions * and to borrow £1,000 to be expended in building a market-house and purchasing one or more fire-engines. This debt was to be paid in ten years out of the assessment authorized.

In 1834 a Police Board was established at Belleville.† The town was divided into two wards, each of which elected two members. The member must be a "freeholder in the town to the assessed value of £75 or upwards for one year." The elector must be a male inhabitant householder possessed for his own use and benefit of a dwelling house and lot of ground as a freehold, or who had paid rent for his dwelling house, within one year next before the election, at the rate of ten pounds or upwards. Why the qualification was made so high in Belleville we have not been able to learn. At the first election the sheriff was to appoint the officer to preside at the election in each ward; afterwards these elections were held "before the bailiff of such ward appointed by the corporation itself"; in other respects this Act was almost an exact copy of what we suppose may be called the Hamilton Charter, except that no provision for the establishment of a market was necessary in this case. Authority to borrow £1,000 wherewith to build a market house and purchase a fire engine was given, however. The special assessment authorized was four pence in the pound. This Act was virtually amended by an Act passed in 1836,‡ in which the special assessment was limited to three pence in the pound. In that year the erection of a market in the west ward of Brockville was authorized.

In the same year (1834) an Act for the creation of a Police Board in Cornwall was passed. In this Act it was provided that members of the Board should be freeholders assessed at £50 or upwards for the year previous to election, and that the electors should be male inhabitant freeholders or householders, paying for their dwelling houses for one year before the election a rent of £6 per annum or upwards. Four pence in the pound was the limit of the special assessment, and the Board were authorized to borrow £1,000 for building a market-house and purchasing a fire engine. The Board were authorized to choose a site for a market, purchase it, erect buildings, and make regulations, but in this case the rules and regulations for the market were to have no force until examined and approved of by the General Quarter Sessions of the Peace, and signed by the chairman.

In the same year an Act to establish a Board of Police at Port Hope§ was passed. This was for the greater part a copy of the other charters, but the qualification of a member was that he "be a freeholder therein to the assessed value of £60," and of an elector that "he be assessed on freehold in the ward or that he has resided in it for one year and

* Section 28.

† 4 Will. IV. c. 24.

‡ 6 Will. IV. c. 14.

§ 4 Will. IV. c. 26.

paid rent for his dwelling at the rate of £5 or upwards." They were authorized to establish the market in such place within the town as they should themselves deem most convenient, provided that the piece of ground selected should not be of less extent than one acre, and they were authorized to borrow the £1,000.

A similar charter was this year given to Prescott, but in this case the market was to be established in such place within the town as the Justices of the Peace for the district of Johnstown in Quarter Sessions might determine.

It was not until 1837 that the Act to establish a Board of Police in the town of Cobourg * was passed. This town was divided into three wards, the east and west wards elected two members each, and the south ward one. It may be that the mode of electing a fifth member, provided in the previous Acts, now seemed somewhat absurd. The qualification of the elector not assessed as a freeholder was that he must have resided in the ward one year and paid one year's rent of a dwelling-house at the rate of ten pounds per annum. The special assessment was limited to three pence in the pound. The Board were authorized "to perform all the functions, and exercise the authority by law given to the Board of Police in other police towns within this Province with respect to making or amending any street, or highway, or road within the said town, provided always that it should not be lawful for the said Board of Police to lay out, open or establish any new street which might interfere with the powers conferred upon the Cobourg Harbour Company," by the Act 10 Geo. IV. They were authorized to select and purchase a site for a market. As in other charters, it was provided that if a dozen ratepayers objected, a public meeting should be called, and at this a majority of the persons entitled to vote would decide whether the proposed site should be confirmed or not.

In the same year the villages of Halliwell and Picton were "incorporated" by the name of the town of Picton. As in the other cases the body to manage the affairs of the town was called the Board of Police. There was a slight difference in the qualification of electors; every male inhabitant householder who held a dwelling-house, shop, store, or other tenement in the town as freehold or leasehold, or who, for one year next before the election had paid one year's rent on any dwelling, shop, store or other tenement at the rate of ten pounds per annum was entitled to vote. The town was divided into three wards, each of which elected one member. This Board had the same power as the others to appoint officers and make by-laws for the good government of the town. The special assessment they were authorized to make was limited to two pence in the pound, and it was provided † that the width of the streets already laid out should not be altered, that in the protraction of any street there should be no variation from the width already established, and that no new street laid out under the direction of the Board should be less than forty feet in width.

In some of these charters the harbours were included within the limits of the towns, and thus placed under the control of the Board of Police. In others the water's edge was made the boundary, probably because the control of the harbours had already been given to incorporated companies. Why there were so many differences in the qualification of members of the Police Boards and of electors; why the divisions into wards, and the number of representatives differed; why the amount of the the special assessment differed in so many instances; and why in some cases the choice of a market place was entrusted to the Quarter Sessions, and in at least one case the approval of the Quarter Sessions was required to give validity and force to the market rules and regulations, prepared by the Board of Police, it would perhaps be impossible now to learn. It does seem extraordinary that in 1837 an Act ‡ was passed reviving the power of the Justices of the Peace of the Midland district in Quarter Sessions, to make, ordain, constitute and publish such prudential rules and regulations as they may deem expedient relative to the surveying of chimneys and the building and construction thereof, and the prevention of accidental fires, and all matters touching the premises; and to enforce all these said rules and regulations by fine in the same manner as prescribed in certain cases by the fifth clause of "the

* 7 Will. IV. c. 42.

† Sec. 28.

‡ 7 Will. IV. c. 43.

Act entitled "an Act to make more ample provision for regulating the police of the town of Kingston," In this Act the very existence of the Board of Police of the town of Kingston was ignored.

THE CORPORATION OF TORONTO.

In 1814 an Act * was passed authorizing the Justices of the Peace for the Home District to fix upon and establish some convenient place in the town of York as a market, and to make rules, orders and regulations for its management. In 1817, as has already been stated, the magistrates assembled in Quarter Sessions were authorized to make prudential rules and regulations relative to paving, lighting, keeping in repair and improving the streets of York and other towns, and regulating slaughter houses and the assize of bread, to enforce the laws relating to cattle roaming at large, and to the inspection of weights and measures, and to raise a sum not exceeding £100 in any one year for purchasing and keeping in repair fire-engines, ladders, buckets, and other utensils for extinguishing fires, and for making other necessary improvements. In 1831 an Act † was passed vesting the market square of the town of York in trustees for the benefit of the inhabitants. The trustees were to be the church and town wardens, and they were authorized "to lease the same in such parcels and for and upon such terms as the magistrates of the district in general or adjourned sessions may order or direct." Moneys arising from such leases were to be paid to the treasurer of the district, and to be disposed of for such public uses for the benefit of the inhabitants of the town as the justices might direct. In 1834, the year in which "Boards of Police" were created in so many other towns, an Act was passed "to extend the limits of the town of York, to erect the said town into a city, and to incorporate it under the name of the City of Toronto." ‡ The preamble stated that "from the rapid increase of the population, commerce and wealth of the town of York, a more efficient system of police and municipal government, than that previously established had become obviously necessary" and "none appeared so likely to attain effectually the objects desired as the erection thereof into a city, and the incorporation of the inhabitants, and vesting in them the power to elect a mayor, aldermen, and common councilmen, and other officers for the management of the affairs of the said city, and the levying of such moderate taxes as may be found necessary for improvements and other public purposes." It stated also that the name of York was common to many towns and places, and that for avoiding inconvenience and confusion, it was desirable "to designate the capital of the Province by a name which would better distinguish it, and none appeared more eligible than that by which the site of the town was known before the name of York was given to it." It was therefore provided that the name thenceforth should be Toronto. So much of the Acts vesting in the Justices powers for the government of towns as related to York, and so much of other Acts respecting town officers, and the Act vesting the market square in trustees, were repealed.

The extended boundaries of the city are described as "commencing at the distance of one chain on a course south sixteen degrees east from the south-westerly corner of lot number two, in the first concession from the Bay, in the township of York, in the County of York, thence southerly in the direction of the side-line, between lots numbers two and three in that concession, to the distance of 500 feet from the point at which the said line intersects the margin of the water on the shore of Lake Ontario, following the direction of the curvatures of the shore and keeping always at a distance of 500 feet from the margin of the water until the point is attained which is 500 feet from the north-westernmost point of the Island or peninsula forming the harbour; thence across the bay or harbour of York to a point where a line drawn southerly from the north-easterly corner of Park lot number 29 in the said township of York in the direction of the easterly boundary line of the said Park lot intersects the margin of the water on the shore of the Lake Ontario; thence northerly in the direction of the said line so drawn from the said corner of the said Park lot, through the said corner to the point at which the said line so drawn through the said corner intersects the northerly

* 54 Geo. III. c. 15.

† 1 Will. IV. c. 10.

‡ 4 Will. IV. c. 23.

boundary line of the allowance for road between the Park lots and the second concession from the bay in the said township of York ; thence easterly along the said northerly boundary line of the said allowance for road to the easterly shore or water's edge of the river Don, thence southerly along the water's edge on the eastern side of the said river to a point where the said water's edge intersects the southerly boundary line of the allowance for road in front of the said first concession ; thence easterly along the southerly boundary line of the allowance for road in front of the said first concession to the place of beginning, except so much thereof as by certain indentures . . . has been conveyed to the University of King's College."

Within these boundaries lay the city and its liberties. The city was divided into five wards, named Saint David, Saint Andrew, Saint Patrick, St. Lawrence and Saint George. The boundaries of the wards were described, and portions of the liberties were attached to each. The Common Council about to be created was authorized to erect new wards, not exceeding five in number, and from time to time to alter and vary the boundaries of such outer wards. Each of these outer wards may be attached to the city as soon as it appeared from the city census that it contained as many inhabitants as was contained in the least populous of the wards created by the Act, and as soon as it appeared from the assessment that it contained as much assessed property as the least wealthy of the wards erected by the Act. The limits of the port of Toronto were also defined.

The inhabitants of the city were declared a body corporate with continued succession, a common seal, capable of suing and being sued, of purchasing, holding, and deeding real and personal property, and of giving and receiving bills, bonds, covenants, judgments, and instruments, and securities, of what nature or kind soever. Two aldermen and two councillors were to be elected by each ward, and the aldermen and councillors were to elect one of the aldermen mayor. Should the votes be equally divided the alderman other than the alderman proposed for mayor, who was rated for the greatest amount of property, may give a second or casting vote. The qualification of an alderman was that he be a resident householder within the city for one year next before the election, and that he be possessed of real property within the city in freehold or for a term of years rated at £200. The qualification of councillor was that he be a resident householder, and possess such property rated at £150, and it was provided that "additional fire places assessed should be included in this valuation." The qualification of an elector was that "he be a male inhabitant householder within the ward for which the election was held, that he have resided in the city for at least a year, and in the ward for at least three months, and that he be possessed either in freehold, or as tenant for a term of years, or from year to year, of a lot or dwelling house within the ward. A portion of a house, having a distinct communication with the street was to be deemed a dwelling house. Section 20 vested the legislative power of the city in the mayor, aldermen, and councillors who together formed the common council. The council's power of legislation for the good government of the city as defined by Section 22 was very extensive. Amongst the chief powers given to them in addition to those given to the Boards of Police were the regulation of wharves and the management of the harbour ; the regulation and control of fishing and of bathing in the harbour ; the suppression of tipling houses, the enforcement of the due observance of the Sabbath, the regulation of public shows, billiard tables, theatres, auctioneers, butchers, cartmen, hawkers, pedlars, and hucksters, and of inns, taverns, and places of entertainment ; the control of the dimension and cleaning of chimneys, of the erection of fire places, and of dangerous manufactures ; the establishment and regulation of an alms-house ; the erection, establishment, and regulation of a gaol ; the establishment and regulation of a city watch, and the regulation of the police. The city still depended on wells, pumps, and cisterns for much of its supply of what is described as good and wholesome water. Besides the powers thus specifically given the common council were further authorised "to make all such laws as may be necessary and proper for carrying into execution the powers hereby vested or hereafter to be vested in the said corporation, or in any department, or office thereof, for the peace, welfare, and good government of the said city, and the liberties thereof," provided that no person should be subject to be fined

more than five pounds, or to be imprisoned more than thirty days for the breach of any by-law or regulation of the city. The council were also authorised to lay an additional tax on all the real and personal property, not to exceed four pence in the pound in the city, or twopence in the pound in the liberties, the property within the city being taxed as town property, and that within the liberties as county property. They were authorised also to require that the road labour of the city and the liberties be commuted for money to be paid to the Chamberlain of the city, and applied to the improvement of the public highways. It seems strange that the power to lay out new streets, or to protect, widen, or otherwise alter existing streets was not given absolutely to the Toronto Common Council, as it was given to the Boards of Police in smaller towns. The Act provided that when the council thought that any such improvement should be made they must apply to the Legislature for an Act to authorise such improvement upon the terms and conditions which to the Legislature should seem just.* The Council were empowered to borrow a sufficient sum to pay off the debt contracted under the authority of the Magistrates of the Home District for the erection of the new market buildings in the Town of York, and such other sums as they may require not exceeding (unless by special authority of Parliament), "the revenue to accrue within five years after such loans were made."

The Act prescribed the manner in which the lists of electors should be prepared, elections should be held and controverted elections tried. Each ward was to elect two aldermen and two councillors annually. The mayor was to hold office for a year, and his salary was to be fixed by the Council, but was not to exceed £500, or be less than £100. The Council might make by-laws to compel the attendance of members at its meetings, which should be held at least four times a year. The Council was authorised to appoint the officers named in the Act, prescribe their duties, and fix their salaries. The Treasurer of the Home District might be appointed City Chamberlain. The Clerk of the Common Council was to be Clerk of the Peace within the city. The High Bailiff and Constables appointed by the Council were bound to attend the City Courts, and the Courts of Assize, and Nisi Prius and Oyer and Terminer for the Home District and no others, and to obey the orders of the mayor and aldermen, or any or either of them, in enforcing the laws and ordinances. The mayor and aldermen were to be justices of the peace in and for the city and its liberties, and any of them might arrest, or order to be arrested, all and any rogues, vagabonds, drunkards, or disorderly persons, and order them to be committed to any workhouse or house of correction. The Act also provided † that there should be "a Court of Record," called the Mayor's Court of the City of Toronto, wherein "the Mayor for the time being should preside, assisted by the Aldermen of the City, or any one of them, and that this Court should possess the like powers, and have the like jurisdiction over crimes and misdemeanors arising within the city of Toronto and the liberties thereof which the Courts of General Quarter Sessions of the Peace within this Province," then had or thereafter should have. The Court was to meet on the second Monday after the opening of each of the four regular sittings of the Common Council enjoined by the Act. It was to have a grand jury of 24, and the panel of petit jurors was to consist of not less than 36 or more than 60 qualified jurors. The clerk of the City Council was to be clerk of this court. The form of proceeding was prescribed. The Justices of the Peace for the Home District were ‡ after the passing of the Act to exercise no jurisdiction as such over offences committed within the city, but they might continue to hold their Quarter Sessions in the city, and the warrant of any justice for the apprehension or commitment of any offender should have force and might be executed. It was provided that the gaol and court house of the Home District should be the gaol and court house of the city as well, until the city by Act of the Common Council otherwise directed. The mayor and aldermen acting as justices of the peace were to discharge the duty previously discharged by the Quarter Sessions in regard to the licensing of innkeepers, and determining the sum to be paid by each innkeeper to the inspector of licenses for the Home District. The Council were to appoint some of their number who

* Sec. 23.

† Sec. 77.

‡ Sec. 67.

with the mayor would form a board of health having the same powers that were conferred by law upon the boards of health, established under the Act 3rd W. IV. The Council were to have the right to establish license and regulate ferries between the city and the Island, and it was provided * that the city and liberties should be represented in Parliament by one member, as the town of York had been.

The power of the Quarter Sessions to assess and levy taxes in addition to those levied by the Council was found to be objectionable. The amount which the Council was authorised to levy appears to have been insufficient. In other respects the charter was unsatisfactory. In 1837 therefore an Act † was passed making several important amendments in the law. All the Acts authorising the Justices in Session to levy taxes were repealed so far as the city was affected, arrearages however being made collectable. Portions of the charter were also repealed, and it was provided that thereafter the City Chamberlain should pay £400 a year to the Treasurer of the Home District until the gaol which the City Council was authorised to erect should be built, when payment of this sum was to cease. The Council was authorised to borrow £5,000 for the purpose of building a gaol and court house. The other changes made were that the Council should thereafter appoint two assessors for the whole city, and one or more collectors for the whole city, and that the assessments ‡ were to be made on all, and every person "who may inhabit, hold, use, or occupy any house, shop, warehouse, building, or piece or parcel of land, or any part, or portion of a house, shop, warehouse, building, or piece or parcel of land being a separate tenement . . . within the city or the liberties . . . according to the yearly value thereof to be ascertained as hereinafter mentioned." Section 9 provided that "except as respects vacant grounds or other property hereinafter specially mentioned and provided for, the annual value of all such houses, shops, warehouses, buildings, gardens, grounds, lands, tenements, and parts and portions thereof, being separate tenements, . . . should be settled according to the real rack rent or full yearly value" to be ascertained once a year. Any land not more than an acre on which buildings were situate should be valued with the buildings, but all in excess of an acre was to be valued as a separate tenement. And all such tenements, and all uncultivated lands, and all other ground cultivated or uncultivated, being a separate tenement, were to be valued, if not more than half an acre, at £5 yearly value; if more than half an acre and not more than an acre £10; if an acre and not two acres £20; and every tenement of greater extent, £20 for the first acre, £10 for the second, £5 for the third, and "£1 10s. for every subsequent acre." Certain articles of personal property were also to be taxed, and these were to be assessed as follows: "A stud horse kept for hire at £40 of yearly value; every other horse, mare, or gelding, above the age of three years, at £3 of yearly value; milch cows and other horned cattle above the age of two years at one pound of yearly value; every close carriage with four wheels kept for pleasure only at £50 of yearly value; every phaeton or other open carriage with four wheels kept for pleasure only at £25 of yearly value; every waggon or other carriage or gig kept for pleasure only at £10 of yearly value; every two-horse sleigh kept for pleasure only at £25 of yearly value; and every one-horse sleigh kept for pleasure only at £10 of yearly value. Appeal might be made to a court composed of five members of the Council. There does not appear to have been much change of opinion as to the proper incidence of taxation during these forty years. The Council were each year to declare the amount in the pound of such rent or valuation which should be raised or levied for the year, but the rate to be levied must not exceed in any one year the sum of one shilling and sixpence in the pound, § and the rate on the pound in the liberties must be one-fourth of the rate in the city. Every male inhabitant of the age of twenty-one years and upwards, not otherwise rated and liable by law to perform statute labour, was required to pay ten shillings a year in lieu of such labour.

The 26th clause provided that aldermen should be possessed of real estate in freehold or under lease assessed under the Act at £60, or be in receipt of rents to the amount of £60 a year from such property, and that councillors should have real estate assessed

* Sec. 96.

† 7 W. IV, c. 37.

‡ Sec. 7.

§ Sec. 22.

at £40 under the Act or be in receipt of rents to that amount; and section 27 provided that only those who owned or occupied as tenants for at least one year a dwelling or other tenement rated at the yearly value of ten pounds should be electors. This was a serious alteration of the franchise. It was also provided * that thereafter aldermen and councillors should "act in their offices for two years," one alderman and one councillor of each ward going out of office every year.

The Council were authorised by this Act † to appoint two coroners for the city. It was also provided that all persons rated in respect of any premises within the city or liberties in fifty pounds of yearly rent or value, or upwards, should be qualified and liable to serve as special jurors, and that the wages of the members of Parliament representing the city should be paid by the Chamberlain out of the moneys in his hands for the uses of the city on the warrant of the mayor of. In the same year an Act was passed authorising the establishment of an additional market on the corner of Brant and Adelaide Streets, and of a second on a part of park lot number thirteen, which had been set apart for the purpose "being 90 feet wide on Lot (Queen) Street, and running northerly 300 feet. In 1833 £2,000 was granted for the improvement of York harbour. In 1837 the Legislature granted £2,500 to complete the improvements, but the Act provided that this money should be expended by three commissioners appointed by the Lieut.-Governor, and that before any of the money was spent the rates and tolls authorised by a previous Act should be imposed.

RURAL MUNICIPALITIES.

In those years 1834-7 much was done to establish municipal government in the towns. In the rural districts there seemed even in 1834 to be no prospect of the introduction of a sound municipal system. The Justices in Sessions still managed all local matters pretty much as they pleased. In 1834, one Act relieved assessors from the trouble some duty of attending at the district town to deliver and verify their assessment lists, providing other means by which this may be done, and another ‡ provided that the inhabitant householders at the annual township meetings, might elect not less than three nor more than eighteen persons to be fence-viewers. The householders were also authorized at such meetings to determine what should be considered a lawful fence. The Act provided at great length what the powers, duties and remuneration of the fence-viewers should be, and how their decisions should be enforced. By this Act also, provision was made for opening ditches or water-courses § for the purpose of letting off any surplus water from swamps and sunken miry lands owned by different persons. It was made the duty of each of the owners of such a piece of land "to open a just and fair share of such ditch or water-course in proportion to their several interests in the same," and if a dispute arose as to the part, width, depth, or extent, that any party so interested ought to open or make, the same might be referred to three fence-viewers who should "apportion such ditch or water-course among the several parties," as in their opinion was equitable, and determine what time should be allowed to each of the parties to do his share of the work, and their decision would have the same effect as in the case of line fences. If any neglected or refused to act according to the decision of the fence-viewers, the other parties interested might do the work and recover the value thereof from the person who neglected or refused. The fence-viewers might also authorize the parties interested in such work to continue the necessary ditch at their own expense across the land of a person not sufficiently interested to make him a party to the undertaking. That portion of the Act 33 Geo. III., which provided that overseers should act as fence-viewers was repealed. ¶

In 1835, an important change was made. || Several Acts previously passed respecting town meetings were repealed, and it was provided that the township clerk should assemble the inhabitants of the township being householders or freeholders, at the place agreed upon at the previous yearly meeting, or if no place had thus been agreed

* Sec. 33.

† Sec. 28.

‡ 4 Wm. IV. c. 12.

§ Sec. 16.

5 Wm. IV. c. 8.

upon, at the place where the previous meeting was held. He was to give fifteen days public notice of the time and place of meeting. If the clerk neglected this duty the householders and freeholders might nevertheless meet at the usual time and place, and transact business. They were empowered to choose one clerk of the township, three commissioners for the township, one assessor, one collector and any number of persons they thought proper to serve as overseers of highways, roads, and bridges, and as pound-keepers. A new township was authorized to hold such meetings and elect such officers as soon as it contained thirty inhabitant householders or freeholders, and if it did not contain so many, then its inhabitants should be taken and reputed as inhabitants of that adjacent township which contained the smallest number of inhabitants, that is authorized to hold a township meeting, and may vote at its township meetings, and the regulations made should extend to both, and the officers elected be officers of both. The meetings were authorized as before to make regulations respecting the running of cattle at large. They were also to make rules and regulations relative to pits, precipices and deep waters, and other places dangerous to travellers; to destroying weeds or suppressing their growth; as to the height and description of lawful fences and such other matters connected with the same as may tend to promote the peace and welfare of their township. The clerk was required to record all matters transacted at the meeting, to post one copy of his record in a public place, and file another in the office of the Clerk of the Peace. He was to notify those who were elected, and to administer the oath of office to them and record their names when they had taken the oath. He was to be paid five shillings for every day he spent in the discharge of those duties, and also certain fees. The duties of the assessors were defined, and their remuneration was to be 7 per cent. on the amount assessed if it did not exceed £50, and a smaller allowance if the amount were larger. If the amount assessed reached £350 the allowance was to be $3\frac{1}{2}$ per cent. The collector was to be paid at the rate of 8 per cent. on the smaller sums, and if the amount reached £250 at the rate of £6 10s., and on all sums over that at the rate of 5 per cent. Rates might be recovered by execution and distress, in which case costs were added. The collectors gave bonds to the district treasurer, to whom they paid the proceeds of all rates levied, and the township clerks gave bonds to the commissioners.

The most important change was the election of commissioners, to whom were now transferred many of the powers respecting the construction and repair of roads and bridges, previously held and exercised by the Justices in Quarter Sessions. The duties of the overseers continued to be nearly the same, but they were now to superintend, make and keep in repair the highways, roads, streets, and bridges allotted to them, and ordered not by the Justices but by the Board of Commissioners for the township. The Act provided that fences should be erected where a road bordered on a dangerous place; that a person liable to perform statute labour might compound for such duty by paying five shillings for a team and driver for each day, and two shillings and sixpence for every day for which he might be liable for if he had no team; that the money so paid should be expended on the roads and duly accounted for; that all persons liable to perform statute labour and refusing or neglecting when called on by the overseer, should be liable to a penalty of five shillings for each day; and that the roads and highways in and through every township, as also a just share of any road actually required and necessarily running between the same and any other township, should be cleaned, maintained and repaired by the inhabitants thereof, "each doing his due proportion of the work under direction of the overseer to whom the road upon which he was required to work had been allotted. So far there was not much change as to the work to be done, and the liabilities and duties of the inhabitants. This Act provided * that the Commissioners should be known by the name of the Board of Commissioners for the township of — and as such be capable of performing, ordering, and doing all such matters and things as shall be authorized by this Act." The clerk of the township was declared to be clerk of the commissioners, and required to attend their meetings and keep a record of the proceedings. The board were required to meet three times, on days named, at the

* Section 46

place at which the last township meeting was held, and authorized to hold as many other meetings as they thought fit at any places they chose. They were authorized and required to "take charge of, allot, and order to be made, repaired, and kept in repair, in such manner as they may think expedient, all such roads and bridges as are now or shall be required to be kept in repair by the inhabitants of such township." They were authorized and required to divide the townships into divisions, and to allot to the several overseers their respective divisions, and to order the said overseers to expend the statute labour on the roads within the same, or they might order the whole or any part of such statute labour to be done on the road or roads in any particular part of such township or of any adjacent township as to them should seem expedient, and also to hear and determine upon all such matters as might come before them by virtue of this Act; to regulate the compensation of poundkeepers; to determine when persons liable to statute labour should be relieved from that liability; to examine the accounts of overseers and proceed against defaulters; to contract with any inhabitant for the making any part of a public road in lieu of his statute labour. They were also authorized to appoint persons to such offices as were not filled by election at the town meetings, or such as became vacant by the refusal of the persons elected to act, or by death. They received power to discharge the duties incumbent upon town wardens under the Act 39 Geo. III, "To provide for the education and support of orphan children." Section 76 provided that the commissioners should "be as a corporation to represent the whole inhabitants of the township . . . and as such may have and hold the property of or belonging to the township, and should and may sue, prosecute or defend in all presentments, indictments or actions for and on the behalf of the said township." It was provided that the commissioners should receive from the treasurer of the district as compensation for their services five shillings per day each for every day they might be necessarily engaged in such duties and services, the said days to be certified by the township clerk.

This Act wrought a great change, but the control and management of the affairs of the district corresponding to the business of counties in later times, and the power to raise money by assessment, still rested entirely with the justices in Quarter Sessions. The only money controlled by the town commissioners was that paid in commutation of statute labour and the money paid under the Wild Lands Assessment Act for lands in the township. The proceeds of the tax on wild lands the district treasurer was required * to pay over to the clerk of each township on demand, and both these and the statute labor commutation the commissioners were required to spend on the roads and bridges.

The Act † provided that whenever a town in any township was incorporated, or had police regulations the annual township meetings should not be held in such town, but in any convenient place outside of it that the magistrates, commissioners or other authorized persons may appoint.

Such was the condition of municipal affairs in Upper Canada when the rebellion of 1837 led to the abolition of the separate Provincial governments and legislatures, and brought about the legislative union. The changes made within a few years were unquestionably very important, but as yet the powers of municipal self-government entrusted to the people were very small.

The biographer of Hamilton Merritt, writing of 1833, said ‡ "a time-honoured institution lost its usefulness about this time though called in exercise at the breaking out of hostilities. It was the Court of Quarter Sessions or Board of Magistrates held for this district at Niagara, which had existed from the first settlements of the country, and was composed of the leading men. It now gave way to what was known as the Court of Requests, having a smaller territory, but a more extended jurisdiction, and was in that sense the germ of our present expensive and inefficient municipal system." In fact the Court of Requests was established in 1792, § and the Act which is described as having such direful consequences, provided only that the court, which was merely for the trial

* Sec. 63.

‡ Biography of Hon. W. H. Merritt, p. 143.

† 7 Will. IV. c. 21.

§ 32 Geo. III. c. 6.

of matters of debt and contract, should be held by two or more commissioners acting under a commission from the Lieut.-Governor, and that its jurisdiction should extend to ten pounds. The original Act authorized "any two or more Justices of the Peace, to act under and by virtue of His Majesty's commission within the limits of their said respective commissions." The change does not seem to have been much in the direction of popular self-government, but any Act that took from the nominated magistracy any of the power they had exercised excited alarm amongst those who feared the people. The changes made from 1834 to 1837 were much more alarming, and yet except as a promise of better things they were of little real importance.

Mr. Charles Buller, in his letter as Chief Commissioner of Municipal Inquiry to the Assistant Commissioners, dated Quebec, August 25th, 1838, said * "In Upper Canada there appears to exist a systematic, comprehensive, and popular organization of the townships. The people of these districts are entrusted with the freest election of municipal officers, but the officers thus chosen seem to be entrusted with hardly any duties, and certainly are entrusted with hardly any of the powers which are necessary for a really efficient municipal government. The inhabitants of these townships appear to have a very popular choice of nearly useless functionaries; and a very perfect municipal machinery exists without being rendered available for the most important municipal purposes."

FINANCIAL EMBARRASSMENT.

Why did a Government so irresponsible and a Legislature usually so submissive introduce municipal institutions, capable of development, in 1834 and the years subsequent? The journals of the House of Assembly inform us that some of the towns petitioned for a better system of government than that of the Quarter Sessions, but this does not seem sufficient to have caused so great a change so suddenly made. Lord Durham in his report (page 55) says that while "in Lower Canada the members of the Assembly were anxious chiefly to secure for the county they happened to represent or the district with which they were connected as large a proportion as possible of any funds which the Legislature may have at its disposal, in Upper Canada . . . the means of doing this were never so extensive as those possessed by the Lower Province: and the great works which the Province commenced on a very extended scale, and executed in a spirit of great carelessness and profusion, left so little surplus revenue that this Province alone amongst the North American Colonies had fortunately for itself been compelled to establish a system of local assessments, and to leave local works in a great measure to the energy and means of the localities themselves."

This no doubt was one of the reasons. Lord Durham states that the people settled at some distance from the water front complained that those great works would prove beneficial only to those who resided near them, that they were undertaken to strengthen party influence and conducted carelessly and extravagantly of deliberate purpose, in order that a few individuals might be enriched at the expense of a community. The selfishness and greed of the ruling party, their extravagance and corruption and their neglect of the wants and interests of the back settlers, Lord Durham appears to have regarded as "blessings in disguise." They did much no doubt indirectly to compel the dominant party to introduce those municipal institutions to which because they promote the growth of the principles of popular government they were so averse.

The revenue of Upper Canada was very small for many years. The increase of debt was very rapid. With few exceptions the works for which the larger sums were borrowed either were absolutely necessary to the development of the country or promised to be very useful, but when the interest on the debt greatly exceeded the whole revenue of the Province nothing but the Welland Canal could be said to be finished, and that was a mere ditch with wooden locks already decayed. Lord Durham was mistaken in supposing that municipal institutions had been developed so

* Lord Durham's Report Appendix, C, p. 5.

fully as to provide sufficiently for the construction and maintenance of roads and bridges and other local works of necessity. For these purposes little else than statute labour was available. The money raised by assessment was inconsiderable, the value of property for taxation purposes having been arbitrarily fixed by statute, and the maximum rate of taxation permitted by law being in most cases only a penny in the pound of that valuation. In 1811 the whole amount so raised * in the eight districts was—

Eastern District.....	£627	8	2
Johnstown.....	451	8	1 $\frac{1}{4}$
Midland.....	690	14	8
Newcastle.....	180	2	3 $\frac{1}{4}$
Home.....	479	11	7 $\frac{1}{2}$
Niagara.....	1,060	4	5
London.....	279	17	2 $\frac{1}{2}$
Western.....	364	10	1 $\frac{1}{4}$
Total.....	£4,133	16	7

In 1824 the assessed values of property in the twelve districts into which the Province was then divided were—†

Eastern.....	£182,990	0	0
Ottawa.....	115	3	9
Johnstown.....	187,388	15	6
Bathurst.....	85,045	7	6
Midland.....	390,470	0	0
Newcastle.....	115,911	10	0
Home.....	234,234	7	0
Town of York.....	39,378	0	0
Gore.....	176,164	0	0
Niagara.....	255,052	13	7
London.....	209,824	0	0
Western.....	429	2	10
Total.....	£1,969,074	13	11

At a penny in the pound the rates would amount to £8,204 9s. 6d. The Quarter Sessions were authorised to make small grants for special work on the roads, but it is evident that little could be spared out of so small a revenue after the services specially entrusted to the Sessions had been provided for. The government and Legislature occasionally voted sums which seem large when compared with the revenue of the Province, and these although wastefully expended must have done much to improve the roads, but nevertheless nearly all the roads of the Province, except perhaps those for whose improvement large sums were borrowed on the security of tolls, were in a wretched condition, and in many places were mere tracks impassable in bad weather. In 1807 a Committee of the Assembly propounded a grand scheme for opening a road from one end of the Province to the other, but they asked that the money required should be raised "from the waste lands of the Crown."

In the session of 1839 a Committee of the House of Assembly of Upper Canada reported that the funded debt of the Province was then £1,162,187 15s. 6d, and that the amount granted for the several public works but not yet negotiated was £723,385 9s. 2d., of which £197,416 would be required that year. That sum, an amount of £29,000 payable to the London agents as interest on debentures and an estimated deficit of £56,902 on

* Gourlay's Statistics of Canada, p. 222.

† Biography of W. H. Merritt, p. 71.

ordinary expenditure account would add £283,318 to the actual debt in that year. The financial condition of the Province was very desperate.

In December, 1841, Sir Francis Hincks laid before the Legislature of the United Provinces a statement which showed that the debt then was £1,670,142 10s. 10 $\frac{1}{2}$ d. of which £444,444 8s. 10d. was represented by debentures payable through Glynn, Mills & Co.; £438,850 by debentures negotiated through Baring Brothers, and about £40,000 more by balances due to those firms. About £420,000 was entered as Provincial debentures, and the rest was due to special funds and to Canadian institutions. Nearly all was the debt of Upper Canada. The amounts lent to incorporated companies and others in Upper Canada were—

Home District Toll Roads	£95,723	4	0 $\frac{1}{2}$
Hamilton and Brantford Road	45,804	12	1
Dundas and Waterloo Road	29,246	16	4
Kingston and Napanee Road	20,555	2	3
Brockville and St. Francis Road	7,692	17	0
Erie and Ontario R. R. Co.	5,514	1	8
Oakville Harbour Co.	3,723	16	6
Cobourg Harbour Co.	5,211	18	3
Port Hope Harbour Co.	3,075	8	0
Desjardins Canal Co.	22,415	14	2
Grand River Navigation Co.	588	16	11
Tay Navigation Co.	1,461	0	2
Grantham Academy	318	2	7
Montreal Turnpike Trust	1,211	16	3 $\frac{1}{2}$
Quebec Turnpike Trust	400	19	7 $\frac{1}{2}$
	£283,524	14	11 $\frac{1}{2}$

The amounts remaining due on account of actual expenditures on Provincial works were :—

Welland Canal	£462,856	18	10
St. Lawrence Canals	440,097	11	0
Trent Navigation	23,364	11	7
Inland Waters, Newcastle District	21,660	0	0
Kettle Creek Harbour	6,500	0	0
Paris Bridge	2,000	0	0
Trent Bridge	4,800	0	0
Chatham Bridge	2,000	0	0
Dunnville Bridge	1,700	0	0
Garafraxa Road	2,500	0	0
New Brunswick Road	2,500	0	0
Kingston Penetentiary	43,198	0	0
Kingston Hospital	3,000	0	0
Parliament Buildings, Toronto	5,000	0	0
West Gwillimbury Road Bridge	955	3	5
St. Ann's Rapids	4,308	16	4 $\frac{1}{2}$
Harbour of Montreal	87,175	0	0
Chambly Canal	35,000	0	0
Steam Dredge, Montreal	1,500	0	0
Thomas Wilson & Co., for this sum owing the Province	66,140	1	0
	£1,225,346	17	3 $\frac{1}{2}$

It will be seen that Lower Canada's share of this large sum was small and that the debts of Upper Canada were contracted at least for the greater part before the Union.

GROWTH OF POPULATION.

Immigration probably did just as much as the financial difficulty to hasten the introduction of municipal institutions. In the early days of the Province, emigration was discouraged, if not systematically, at least effectually. The few persons who had obtained the control of the Government and the Legislature seemed to imagine that they could found families who would constitute an hereditary aristocracy. With that object, immense tracts of land were taken possession of by those parties or granted to their friends under various pretexts. At first emigrants came chiefly from the United States. The feeling which ran high before and after the war of 1812, and the laws passed about that time respecting aliens and traitors drove many back to the United States, and completely checked the influx of emigrants from that quarter. After the war of 1812, the law relating to aliens was more rigorously enforced in order to check emigration from the southern side of the great lakes. One effect of this was to throw doubt on the land titles of many who had long been residents of the Province. The consent of the crown to legislation for the redress of this grievance was freely given and a Bill passed the Legislative Council in 1825-6. This was so amended by the Assembly that the Legislative Council declared the bill as amended to be at variance with the laws and established policy of Great Britain as well as of the United States, and all who approved of the amendments were set down as disloyal.

The difficulty of obtaining authority to settle on the land, the insolence of officials, the interminable vexatious delays, the difficulty of obtaining a title after settlement, the difficulty of opening roads where great blocks of land were held for speculative purposes by non-residents, the practical exemption of the large proprietors from statute labour, and the attempt to create an established church did much to prevent settlement. Lord Durham's report deals very fully with this subject. Under such a system, it says, deserts are interposed between the industrious settlers, the natural difficulties of communication are greatly enhanced, the inhabitants are not merely scattered over a wide space of country but are separated from each other by impassable wastes, the cultivator is cut off from a market, and his position is in every way made more difficult. "In Upper Canada" we are told, * "3,200,000 were granted to the U. E. Loyalists . . . and their children; 730,000 acres to militiamen; 450,000 acres to discharged soldiers and sailors; 255,000 acres to magistrates and barristers; 136,000 acres to executive councillors and their families; 50,000 acres to five legislative councillors and their families; 36,900 acres to clergymen as private property; 264,000 acres to persons contracting to make surveys; 92,526 acres to officers of the army and navy; 500,000 acres for the endowment of schools; 48,520 acres to Colonel Talbot; 12,000 acres to the heirs of General Brock; and 12,000 acres to Dr. Mountain, a former Bishop of Quebec." These lands with the clergy reserves made nearly half of all the surveyed lands of the Province. A great part of the lands granted to soldiers and others were sold for a trifle, and fell into the hands of those who hoped to establish great landed estates, and the large blocks were so selected that the actual settlers were compelled to look for lands at a distance from the water-front and the proposed highways. The report quotes the statement of a Mr. Rankin, deputy land surveyor, who stated that the difficulties thus caused occasioned the abandonment of settlements. He mentioned as an example the township of Rama which the settlers were compelled to abandon after a struggle of three years. † The management of the lands under this system cost more than the lands yielded.‡

Under such a system settlement and progress were almost impossible." Lord Durham's report § affirms that "a striking contrast was presented between the American and the British sides of the frontier line in respect to every sign of productive industry, increasing wealth, and progressive civilization." This it attributes to the misgovernment of Canada. In another place the report says: "Under such circumstances there is little stimulus to enterprise or industry, and their effect is aggravated by the striking contrast by such of the United States as border upon this Province, and where all is activity

* p. 78.

† pp. 85-86.

‡ Lord Durham's Report p. 74.

§ p. 75.

and progress." The report quotes a work by Major Head, who wrote of all the Provinces that "It is a singular and melancholy feature in their condition that the resources rendered of so little avail to the population of Great Britain, are turned to better account by the enterprising inhabitants of the United States." * Mr. Hamilton Merritt, in evidence before a select committee, attributed the difference to "the division line which excluded the people of Canada from the advantages they would derive from participating in the commercial wealth of the country and from the improvement of its internal communications." He stated † that "lands in Upper Canada were not one fourth of the value they were in the State of New York, and real property not one-tenth."

Notwithstanding all these obstacles emigrants did make their way into Upper Canada. At first, as we have said, they came chiefly from the United States. One writer describes these settlers as chiefly "Democratic" in their political views, and as numbering after some years almost as many as the descendants of the Loyalists and of the disbanded soldiers. The population is said by one writer to have been 30,000 in 1795, probably an over estimate, and 160,000 in 1815. Alexander's Bonnycastle § says that in 1806 the population was only 70,000, and in 1826 it had not reached to double that number. All agree that the emigration from Europe was small until 1826. In the ten years that followed, the same writer says, the population nearly trebled itself, and in one year alone 40,000 emigrants made their way to Upper Canada, bringing half a million sterling in gold with them." The new settlers were chiefly to be found in the Western districts to which the Government had directed their steps. The Midland District was long overlooked by those who directed the stream of immigration. Preston in his book || says that, the number of immigrants from the United Kingdom, who landed at Quebec in the seven years ending 1834 was 217,285. The maximum was 51,746 in 1832, and the minimum 12,527 in 1835. Then, as in later years, many of the emigrants who came to Canada to settle became dissatisfied and went to the United States. Lord Durham's report states that only 40 per cent of the immigrants landed at Quebec remained in this country. Still the increase of population was comparatively great in those years. In 1837 there were according to Alexander's Bonnycastle, ¶ 175,000 British settlers in Lower Canada, and 500,000 in Upper Canada, and the French population of Quebec was about 575,000. Preston states ** that according to an annual return made to the Government in 1839 the population of Upper Canada was 400,346, distributed as follows over the 13 districts into which the Province was then divided :

Eastern District.....	28,837
Ottawa ".....	8,483
Johnstown ".....	32,669
Bathurst ".....	24,632
Prince Edward District.....	14,018
Newcastle ".....	35,146
Midland ".....	38,254
Home District, including Toronto (12,153).....	69,953
Niagara „.....	29,953
Gore ".....	51,000
Talbot ".....	9,053
London ".....	42,325
Western ".....	16,023
Total.....	400,346

Lord Durham's report †† states that, when it was written, the population of Upper Canada was 400,000, ‡ and in Lower Canada the English numbered 150,000, and the French 450,000.

* p. 74.

† Biography of W. H. Merritt, p. 97.

§ Vol. 1, p. 122.

|| Preston's Canada, Vol. 2, p. 35.

¶ Vol. 1, p. 217.

** Vol. 2, pp. 34-5.

†† Page 110.

UNION ACT OF 1840.

In 1822, a union of the Provinces was proposed as the best means of settling the disputes which had then become troublesome, and a bill for that purpose was actually introduced in the Imperial Parliament. The proposal did not meet with much favour in Upper Canada. The Legislative Assembly passed a resolution declaring that they were not in a position to express any opinion on the subject, as the question was not before the country at the previous general election, and the constituencies had therefore had no opportunity of expressing their wishes respecting it. The rebellion of 1837 led first to the suspension of the constitution of Lower Canada, and soon after to the Legislative Union of the Provinces. In the Act of the Imperial Parliament by which this was accomplished, some of the opinions which Lord Durham most strongly expressed in his report were disregarded. He thought that the assent of the people of both Provinces should be obtained. It was not even asked. He was very emphatic in recommending that the people of each Province should have representation according to population in the United Legislature, and he argued that by this means the absorption of the French element in the British, which would rapidly increase, could most speedily and satisfactorily be accomplished, as the French would not be alienated and kept apart by the feeling that they were treated unjustly. Equal representation was given to the Provinces, although according to Lord Durham's estimate the population of Lower Canada was 600,000 and that of Upper Canada but 400,000. As of the population of Lower Canada 150,000 were English speaking people whose representatives it was assumed would sympathize and co-operate with the representatives of Upper Canada, the Act seemed to place the French in a helpless and hopeless minority. Financially also the measure was very favourable to Upper Canada. That Province, as we have shown, had an enormous debt. Large sums were required to complete its canal system, and its whole revenue was scarcely sufficient either to cover its ordinary expenditure or to pay the interest on its debt. According to Lord Durham's report its whole revenue was about "£60,000 a year, hardly adequate to pay the interest" on its debt. Preston * estimates the utmost amount of revenue available "as not exceeding £70,000, and the annual deficit as £50,000. The Province was virtually bankrupt. Of its revenues £40,000 was its share—38½ per cent. of the duties on imports collected at Quebec. Lower Canada had a surplus revenue, and as we have shown a very small debt. Lord Durham states† that the revenue was at one time £150,000 a year, but that owing principally to a decreased consumption of spirituous liquors and some other articles of foreign import in consequence of the growth of native manufactures of such articles," the revenue had within four years "diminished to little more than £100,000 per annum. As the permanent ordinary expenditure amounted only to about £60,000, there was a surplus of at least £40,000 a year. The arrangement which gave to the 400,000 in Upper Canada as large a representation as the 600,000 in Lower Canada were to have in the United Legislature, made the surplus of Lower Canada cover the deficit of Upper Canada and rendered the joint revenue available to meet the further expenditures required to make the Upper Province easy of access was, it must be admitted, highly advantageous to this Province.

So much importance was attached to the establishment of municipal institutions such as Lord Durham urgently recommended, that in the bill to unite the Provinces as introduced in the Imperial Parliament provision was made for their establishment. On consideration it was thought better to leave the work of establishing such institutions to the Legislature about to be created, and the bill was amended. This decision was sound in principle, and fortunately the circumstances were such in Canada within the few years following as to enable Mr. Baldwin and those who worked with him to secure for this Province the inestimable blessings of the municipal system it now enjoys.

* Vol. 2, p. 149.

† p. 51.

 THE MUNICIPAL ACT OF 1841

The first attempt of the Legislature of the united Provinces to create a municipal system that would meet all the requirements of Upper Canada was not very successful. After the extinguishment of Legislature of the Lower Canada, the special council which was then called into existence and clothed with certain legislative powers, endeavoured to meet the want of a system of municipal government, which Lord Durham's report had shown to be so great and so urgent, and they passed an ordinance to provide for the better government of the Province by the establishment of local or municipal institutions therein. In this they showed how much they feared to entrust the people with full power of self-government. The following is a fair though brief summary of that ordinance :

"The Province was divided into twenty-two districts, comprising certain seigniories, townships, and parishes. The Governor and council fixed and determined the number of councillors who were to be elected for every district. The warden was appointed by the Governor-General, and his duties were regulated by instructions from the same high functionary. The meetings of householders, at which the parish or township officers as well as the district councillors were elected, and other business was transacted, were convened on the authorization of the warden by one of the justices of peace for the district. The Governor had the power to dissolve the district council under extraordinary circumstances. Instructions were issued by the Governor in Council to the chairmen of parish or township meetings, assessors, collectors, surveyors of highways and bridges, overseers of the poor, and other local officers."*

This ordinance seems to have furnished the basis of several of the more important provisions of the bill introduced by Mr. Harrison, Provincial Secretary of Upper Canada, in 1841, and passed in that session. The preamble of that bill declared that it was expedient "for the better protection and management of the local interests of Her Majesty's subjects in that part of the Province that municipal authorities be established in the several districts." It provided that there should be a district council in each district or group of counties, to consist of a warden and councillors. The warden was to be appointed from time to time by the Governor by letters patent issued under the great seal. Each township or reputed township was to elect one or two councillors at the regular annual meeting held under the Act 1st Victoria of the Parliament of Upper Canada for the election of township officers. The qualification of the electors was not changed. The township was authorized to elect two councillors when the names of inhabitant freeholders and householders on the assessment lists exceeded three hundred. The mode of conducting the elections was not materially changed. Justices of the peace residing in the township were required to attend the election for the purpose of aiding in preserving the peace, when notified by the person who presided at the election, and the justices attending on the presiding officer were authorized to swear in special constables, not exceeding twenty-five, when they thought necessary. The qualification of a councillor was that he reside in the township and be possessed to his own use in fee of lands and tenements within the district, or one of the districts next adjoining, of the real value of three hundred pounds currency over and above all charges and encumbrances. Persons in holy orders, ministers or teachers of religion, judges, officers of the army or navy on full pay, persons holding offices under the district authorities, those having contracts with them, and those attainted for treason or felony were declared ineligible. Others were exempted from serving. Persons who, being duly qualified and not exempt, refused to serve, were to be fined a sum not exceeding ten pounds currency for each offence. The councillors were to hold their seats for three years, one-third of the number, or as nearly one-third as may be going out each year, and no one holding for more than three years. The usual provisions were made for determining by lot after the first elections who should go out first, and for holding elections to fill vacancies in any way created. The council thus

* Local Government in Canada—Bourinot.

electd was to hold four quarterly meetings each year, commencing on the first Tuesday of the months of February, May, August and November respectively. Extraordinary meetings might be held under the authority of the Governor of the Province signified in writing to the warden of the district. No such extraordinary meeting should continue beyond the period of six days, and no matter should be deliberated or determined on at such meeting except that or those for which it had been specially convened. The manner in which the councils should do business was prescribed. The appointment of committees was expressly authorized, but it was provided that it should not be lawful for such committees to sit or meet on any days except those appointed for the meeting of the council. Each council was to submit the names of three fit and proper persons to the Governor, and the Governor might select one of the three to be the district clerk. The clerk was to be appointed by an instrument under the great seal, and to hold office during pleasure. If the council failed to submit three names, the Governor might of his own motion appoint a fit and proper person. The office of treasurer was to become vacant in every district on the first day of the next January, and the Governor was authorized "to appoint in each of the said districts one fit and proper person to be and be called the district treasurer, and to hold his office during pleasure." It was provided that the treasurer so appointed should be "under the control of and accountable to the district council and the auditors hereinafter mentioned, touching all matters and things within the scope of the powers and jurisdiction of the district council, and should not with regard to such matters and things be under the control of and accountable to the justices of the peace for the district." The duties of the treasurer were briefly prescribed, and he was required to submit his accounts quarterly to the district auditors for examination and audit. Until his accounts had been duly audited, approved, and allowed, the treasurer was not to receive any salary, per centage, or remuneration whatever. Of the two district auditors one was to be appointed by the warden, the other to be elected by the council. These two were to examine, settle, allow, or report upon not only the accounts of the district, but also the accounts of the township officers and all other township accounts. The warden was authorized to appoint, "with the approbation of the Governor," an officer to be called the district surveyor, whose duty it should be to superintend the execution of all works undertaken in pursuance of any by-law of the council, to take care of all fixed property belonging to the district, to examine and report upon all estimates of proposed works, to enforce the observance of all contracts for the execution of works undertaken for or on behalf of the district, and to report annually, or oftener, if need be, to the warden on the state of the works in progress and of the fixed property belonging to the district. Such report the warden was required to lay before the council at its quarterly meeting next after the report had been received, and with it an estimate of the probable expense of carrying on the works recommended or in progress, and of managing the fixed property during the then current or next ensuing year. No person was to be appointed district surveyor until examined and declared qualified by the board of works of the Province, or some other competent person or persons named for that purpose by the Governor.

The district councils were authorized to make by-laws :

For the making, maintaining or improving of any new or existing road, street, or other convenient communication and means of transit within the limits of the district, or for the stopping up, altering, or diverting of any road, street, or communication within the limits aforesaid ;

For the erection, preservation, and repair of new or existing bridges and public buildings ;

For the purchase of such real property situate within the limit of each such district respectively as might be required for the use of the inhabitants thereof ;

For the sale of such part or parts of such property belonging to such districts respectively as might have ceased to be useful to the said inhabitants ;

For the superintendence and management of all property belonging to the said districts respectively ;

For providing means for defraying such expenses of, or connected with, the administration of justice within the said districts respectively, as are or may be by law directed to be defrayed by the district or out of the district funds ;

For providing for " the establishment of, and a reasonable allowance for the support of schools ; "

For " raising, assessing, levying, and appropriating such moneys as may be required for the purpose of carrying into effect all or any of the objects for which the said district councils respectively are hereby empowered to make by-laws ; which moneys shall be raised either by means of tolls to be paid in respect of any public work or works within the limits of the said districts respectively, or by means of rates or assessments to be assessed and levied on real or personal property, or both, within the limits of such districts, or in respect of such property or the owners or occupiers thereof ; "

For the collecting of and accounting for all tolls, rates and assessments imposed or raised under the authority of any such council, and of the revenues belonging to such districts respectively ;

For imposing and determining reasonable penalties to be recovered from such persons as, having been elected to offices as hereinfore provided, shall refuse to serve in the same, or refuse or neglect to take and subscribe the oaths of office as hereinbefore prescribed for such offices respectively ;

For determining the amount and the manner of payment of all salaries or other remuneration of district officers to be appointed under the authority of the Act ;

For determining the " amount of salaries, fees, or emoluments which shall be received by the several township officers within the limits of such districts respectively to be appointed or elected in pursuance of any Act or other law now in force, or which may hereafter be in force in that part of the Province to which this Act applies ; "

For establishing a rate of commutation to be paid in money by each person bound to perform statute labour on any road within the district, in lieu of such labour, and for directing how such commutation money shall be collected, levied, and applied ; and

For providing for any other " purpose, matter, or thing which shall be specially subjected to the direction and control of the said district councils respectively by any Act of the Legislature of this Province ; but no such by-law shall impose any punishment of imprisonment or any penalty exceeding five pounds. "

The power of assessment was limited. No tax was to be imposed upon property belonging to the Crown. Only such property was to be assessed as had previously been liable by law to be assessed, and all property that might be assessed must be valued at such rates as the existing laws prescribed. It was further provided that the assessment should not in any case exceed two pence in the pound on the assessed value, and that the total amount of rates or taxes levied for district purposes in any one year on the land within any district should not exceed one penny halfpenny currency per acre. District councils were expressly forbidden to issue or authorize the issue of any bill or note, or in any way to act as bankers, or to authorize any person or party to act as such.

The powers respecting highways and bridges, or work connected therewith, as to the appointment of surveyors of roads and other road officers, as to the making of any rates or assessments for any purpose connected with any of the subjects concerning which power was now given to the district councils, or as to the making of any rules or regulations touching such subjects now as were previously vested in the justices in session, were by the 51st section transferred to the district councils, and the councils were authorized to carry on to completion all works that had been begun by the justices. All rules, regulations, and orders made by the justices remained in force until by-laws making different regulations, were passed by the councils. The councils were to assume all liabilities incurred by the justices on account of the works transferred to the councils, and were empowered to collect all arrears of taxes and other debts due on account of the revenues transferred to them.

The small revenues of the councils must, it is obvious, have rendered the useful exercise of their limited powers very difficult. But they were not allowed absolute control even of their small revenues. The 46th section of the Act provided that it should not be lawful for any council to pass a by-law for performing any public work (except such works as had been commenced or ordered by the justices in sessions previous to the passing of this Act.) without having first received an estimate of such work prepared, or examined and reported upon, by the district surveyor, who was virtually independent of them. It further provided that, "if the cost of such work will, in the opinion of the said surveyor, exceed the sum of four hundred pounds currency, such estimate shall also be examined and reported upon by the board of works for this Province, or by some other competent body or person for that purpose to be appointed by the Governor of this Province." Other means were provided to restrict the freedom of action of the councils. They were required to send a copy of every by-law through the warden to the secretary of the Province immediately after it was passed. No by-law was to be of any force until the expiration of thirty days after an authentic copy of it had been received by the secretary, and within the thirty days the Governor might by order in council declare the disallowance of any such by-law. Lest, notwithstanding these limitations, restrictions and checks, any council should persist in courses unsatisfactory to the Government, the 61st section provided that the Governor in Council might by proclamation "when and so often as circumstances shall in his and their opinion warrant such a measure, dissolve all or any of the aforesaid councils." In case of a dissolution the warden was required to issue his warrant for a new election within ten days. It was provided that in such case "the period at, from, and after which councillors shall vacate their seats in certain proportions as hereinbefore provided, shall commence upon and be accounted from the first Monday in January next following such elections." And the retirement of councillors in rotation was to be regulated by the provisions made to regulate such retirement of councillors to be elected at the first election held under and by virtue of this Act.

Under such a system the councils could not do much harm without the connivance or even the direct encouragement of the Provincial Government, but then they could do very little good.

The 62nd section provided that nothing in the Act should affect the exclusive rights, powers, or privileges of the corporation or municipal authorities of any incorporated city or town, or of any town or village within which any board of police or other municipal or local authorities might be established, but that "all powers and authorities vested at the time of the passing of this Act in the justices of the peace for any district, and being of the nature of those hereby transferred from such justices to the district council, may be exercised by such district council within any such city, town, or village, as they might have been exercised by such justices if such Act had not been passed; and all property of what kind soever now belonging to the district, and lying within any such city, town or village, shall be under the control of such district council. . . . And all district rates or taxes, which are now lawfully imposed or laid by the justices of the peace for the district on any person or any property within such city, town, or village, or any money payable to the district in lieu of rates shall continue to be payable to the treasurer, and shall form part of the district funds until it be otherwise ordered by by-law of the district council. And all such taxes as might be now lawfully laid or imposed by such justices may be imposed or laid by the district council as they might have been by the said justices if this Act had not passed." Other provisions of this Act were that the warden of each district should transmit to the Governor a statement of the receipts and expenditures of the preceding year; that the accounts so transmitted should be laid before both Houses of Parliament at the next following session; and that no councillor should in any case receive or be entitled to any wages, allowance, profit or emolument whatever for his services as such councillor or by reason of his being such councillor. As the districts were still very large, and attendance at a meeting of the council in most cases involved much toil, expense, and loss of time, the attendance, it may well be supposed, was not very regular. Perhaps some hoped that the irregularity of attendance, which the 50th section was so well calculated to cause, would bring discredit on the municipal institutions which

they were reluctant to establish even in a form so maimed and feeble. It is said that the Upper Canadians in Parliament wished that the wardens should be elected, but the objections of those who contended that the popular privileges should be no greater in one Province than in the other prevailed.

The French members of the united Parliament appear to have disapproved of the establishment of municipal institutions in their Province, and opposed any extension of those rights of local self-government conceded or recognized by the ordinance of the special council, because they feared that this would lead to direct taxation. But matters would not remain as they were in the Lower Province, and in 1845 an Act was passed which made every parish and township a municipality, whose affairs were to be managed by an elective council presided over by an elective mayor or president. Further changes were subsequently made, and the county system was introduced. The system which has been in operation in that Province for some years, although framed to suit the peculiar circumstances of the people, and made conformable to their ideas, does not differ materially in many important respects from that which, on the whole, gives so much satisfaction in Ontario.

The system which Mr. Harrison sought to establish necessarily proved a failure. Hamilton Merritt, in a letter dated Nov. 11th, 1843,* said: "Our municipal institutions do not yet work well, in consequence of attempting to create two opposing powers in the same district, the one the magistrates, appointed by the executive government, and (the other) the councillors, elected by the people." The real cause of the failure was that, as we have shown, little more than the shadow of authority was entrusted to the representatives of the people. Responsible government, indeed, existed but in name when the Harrison Act passed, and it was still the policy of those who governed to entrust no more than a semblance of power to the people. Mr. Merritt says, in the same letter: "Although we owe much to Lord Sydenham, he never intended to concede responsible government. During the first session of 1841, if you recollect, the House passed a series of resolutions declaring that hereafter the practical operation of our Provincial government should be assimilated as nearly as possible to the constitution of the mother country, and the executive should command the confidence of the House of Assembly. Sir Charles Bagot came out, determined not to adhere to that principle, but in the first session of 1842 was compelled to adopt it, and call Messrs. Lafontaine, Baldwin and Morin to his council, or dissolve the House of Assembly. Sir Charles Metcalfe came out under the same impression, but has no alternative." Mr. Harrison, the author of the defective Municipal Act, resigned, but Mr. Daly was still in the Cabinet.

Several Acts were passed to amend the various Municipal Acts which remained in force. In 8th Victoria, an Act was passed for better defining the limits of the counties and districts in Upper Canada; another to repeal the Act regulating wire fences and water courses, and make other provisions in lieu thereof; another to provide for the assessment and collection of the district taxes in the town of Kingston by an assessor and collector to be appointed by the district council; another to incorporate the town of Niagara and establish a police therein; and another to incorporate the town of St. Catharines. In the year following, there were passed an Act to amend the laws relating to district councils in Upper Canada; an Act relating to the limits of counties and districts; an Act to amend the mode of assessment in the towns of Niagara and Queenston; Acts to amend the charters of the city of Toronto and of the towns of Cobourg, Cornwall, and Hamilton; and an Act to incorporate Kingston as a city. In the year following, Acts to divide the Western District, to establish lock-up houses in unincorporated towns and villages, to confer limited corporate powers on the towns and villages not specially incorporated, to define the limits of Bytown and establish a town council therein, to incorporate the town of Dundas, to amend the Act incorporating Kingston as a city, to provide for the assessment of real and personal property in the town of Prescott, to

* Biography, p. 263.

repeal the Act of incorporation of the town of London and to establish a town council therein in lieu of a board of police, to incorporate the town of Brantford, and to amend the Act incorporating the town of Dundas, were passed. The mere titles of these bills show how defective the Municipal Act of 1841 was.

THE MUNICIPAL ACT OF 1849.

In 1849, Responsible Government having been firmly established, a municipal system, essentially the same as that we enjoy to-day, was established. By one Act fifty of the Acts relating to municipal affairs then in operation were repealed wholly, and thirteen others were partially repealed. Another Act, the Municipal Magna Charta of this Province, declared that it would be "of great public benefit and advantage that provision should be made by one general law for the erection of municipal corporations and the establishment of regulations of police in and for the several counties, cities, towns, townships and villages in Upper Canada." The changes wrought by the measure whose purpose was thus briefly outlined were quite revolutionary in their character. The cumbrous district municipalities were extinguished, and ample powers of self-government were given to each of the corporations created under this Act, the approval or concurrent action of the Governor in Council being necessary only in cases in which the protection of the rights of individuals or the maintenance of the credit of the municipalities appeared to render the exercise of their authority desirable.

By this Act the inhabitants of every township having one hundred or more resident freeholders or householders on the tax collector's roll were made a body corporate, with what then must have seemed to be ample powers to manage all the local affairs of the township. These powers were to be exercised by a township council of five members "elected by a general township vote or by wards," if the township were divided into wards. The five councillors were to elect one of themselves reeve, and in each of such townships as had five hundred resident freeholders and householders on the collector's list the council were to elect one deputy-reeve also. The district councils were authorized to provide by by-laws passed before the next second of November for attaching such townships as had less than one hundred resident freeholders and householders to some other adjacent township lying within the same county, for dividing townships into wards, where they may deem such division expedient, and appointing the place in each township or ward where the first election should be held, and the person by whom it should be held. Provision was also made as to the qualification of electors and of candidates, as to the manner in which the elections should be held and the time when the elected should assume office. After the first election the township municipalities were to appoint the returning officers and make regulations concerning the elections. These municipalities were declared capable of suing and being sued, of pleading and being impleaded, of purchasing, acquiring and holding lands and tenements and other real and personal property for the use of the inhabitants, and of making and entering into such contracts as may be necessary for the exercise of their corporate functions, and they were empowered to make by-laws—

For the purchase and acquirement of such real and personal property as may be required for the use of the inhabitants and for common school purposes, for erecting, repairing and maintaining a town hall, common school houses, and one or more public pounds.

For the appointment of pound-keepers, fence-viewers, overseers of highways, road surveyors, and so many other officers as may be necessary for carrying into effect the provisions of this and of all other Acts relating to such municipalities; for regulating and prescribing the duties of the officers, imposing penalties for their making default, and for settling their remuneration and regulating the securities they should give for the faithful discharge of their duties.

For the erection, construction or repair of such drains and water courses as the interests of the inhabitants of such township, shall in the opinion of the Council require to be so constructed or repaired at the public expense of the township.

For the opening, constructing, gravelling, macadamizing, planking and repairing of any new or existing road, street, sidewalk, crossing, alley, lane, bridge, or other communication within such township ; for stopping up, pulling down, widening, altering, changing or diverting such communications, provided only that no such communication shall be laid out so as to run through or encroach upon any dwelling house or outhouse, orchard, garden, yard, or pleasure grounds without the consent in writing of the owner. For cutting down the timber for a space not exceeding twenty feet on each side of every highway passing through a wood. For the protection of timber, stone, sand, or gravel being upon any allowance or appropriation for any public road within the township, or for the sale of such timber ; and for regulating the driving or riding on or over any bridge within the township.

For regulating inns, taverns, ale houses and other places for the reception and entertainment of the public ; limiting the number of them ; and where no other provision by law existed for the licensing of such houses, at such rates as to the council may seem expedient, the proceeds of such licenses, if not otherwise appropriated by law, to form part of the public funds of the township.

For making regulations as to pits, precipices and deep waters.

For granting money to the municipal council of the county in aid of making, improving, or repairing any communication lying between such township and any other, or of any work within the township assumed by the county council as a county work, or to be assumed on condition of such grant.

For giving to joint stock companies permission to construct roads or bridges, upon which, when completed to the satisfaction of the council, the company may levy tolls. For taking stock in such company or lending it money for the advancement of such enterprise.

For restraining or regulating the running at large of animals. For imposing a tax on the owners or harbourers of dogs and destroying such as may be found running at large contrary to law. For destroying or suppressing the growth of weeds.

For preventing, restraining or regulating circus, riding and other shows and exhibitions ; for requiring every such show to pay a sum not exceeding five pounds, and to impose penalties upon the proprietors who exhibited without having made such payment.

For appraising the damages to be paid by the owners of animals trespassing. For causing such animals as were impounded to be sold if not claimed within a certain time. For settling the height and description of lawful fences.

For ascertaining and establishing by public authority the boundaries of the township. For empowering landholders to compound for the statute labour by them performable and to direct how the commutation money should be paid and applied. For enforcing the performance of statute labour. For imposing and collecting, by distress and sale of the chattels of offenders, reasonable penalties not exceeding in any case five pounds currency, or imposing reasonable punishment not exceeding twenty days for the breach of any of the by-laws of such municipality.

For borrowing under the restriction and upon the security provided by the Act all such sums as may be necessary for executing any township public work within their jurisdiction and the scope of their authority.

“ For raising, levying, collecting and appropriating such moneys as may be required for all or any of the purposes aforesaid, either by way of tolls to be paid on any township bridge or road or other township work to defray the expense of making, repairing or maintaining the same, or by means of a rate or rates to be assessed equally on the whole rateable property of such township liable to assessment according to any law which shall be in force in Upper Canada concerning rates and assessments.”

For making such other regulations as to township affairs, not contrary to any law of the province or by-law of the county municipality, as the good of the inhabitants may seem to them to require.

The only restriction imposed upon the borrowing powers of any municipality by this Act was that imposed by sections 177-8. By section 177 it was made the duty of the municipality to cause each year a sum to be assessed sufficient to pay the interest on all funded debts, and all such debts as became payable during the year, and provided that "no by-law hereafter to be passed for the creation of any such debt, or for the negotiation of any loan, should be valid or effectual to bind any such municipal corporation unless a special rate per annum over and above, and in addition to all other rates whatsoever, shall be settled in such by-law to be levied in each year for the payment of the debt to be created, . . . nor unless such special rate shall be sufficient . . . to satisfy and discharge such debt with the interest thereof within twenty years from the passing of such by-law, and it should not be competent to any municipal corporation to repeal such by-law or to discontinue such rate until the debt to be incurred and the interest thereon should be fully paid and discharged; nor to apply the proceeds thereof to any other purpose than the payment and satisfaction of the same." Section 178 declared that if a by-law were passed to repeal a by-law authorizing the raising of a loan it should be absolutely null and void, and that if the officers of the corporation should "under pretence of such pretended by-law" neglect or refuse to carry into effect a by-law under which a debt had been incurred they should be guilty of a misdemeanor and be punished by fine or imprisonment or both.

The incorporation of cities, towns and villages, and the election of trustees in police villages were also provided for. The cities were to be wholly self-governed. The municipalities of the towns and villages were to have within their limits powers similar to those conferred on the township municipalities. Every town was to be divided into at least three wards, as equally as may be in respect to population and wealth. The number of inhabitants in a ward was in no case to be less than five hundred, and provision was made for the creation of new wards as the population increased in what were called the liberties. Three councillors were to be elected for each ward, and the councillors elected one of themselves as head of the municipality who was called "mayor." The council appointed all the town officials. The town council were also to elect a reeve, and when the resident freeholders and householders exceeded five hundred a deputy-reeve also. A police office was to be established in every town. A police magistrate may be appointed by the crown, but where no such appointment was made the mayor was to preside or any justice whom the mayor may request to sit in his stead. The council were to appoint a chief constable for the town and one or more constables for each ward. Any place in which a thousand persons or more resided near together, may, on application of not less than one hundred resident freeholders or householders, be made a village by order in council and proclamation under the great seal. The qualified voters were then to elect five councillors and these to elect one of themselves town reeve. The powers given to the town and village councils must have seemed ample when the Act passed, and although many amendments have since been thought necessary or desirable, no essential change has since been made except, perhaps, that which enables some towns to separate themselves in all matters of municipal administration from the counties in which they are situate.

MUNICIPAL SYSTEMS OF THE UNITED STATES.

The information respecting the origin, growth, and present condition of municipal institutions in Europe and on this continent, which we were able to furnish in our first report, seems to lead inevitably to the conclusion that although we may find much in the reformed county, city and borough government of Great Britain and Ireland, and much even in the systems of continental Europe worthy of serious consideration and, perhaps, of adoption, we must look rather to the municipal systems of the United States for useful practical lessons, and especially of those states whose circumstances and conditions most nearly resemble our own.

Prof. Bryce, in his great work "The American Commonwealth," recently published, when treating of the municipal systems of the great Republic, describes the types of rural local government as three in number. The system in the New England States, and that which prevails in the southern states, are most widely different. The middle and northern states he groups together, although there is really a very great difference in their municipal systems. For the difference between the several systems he accounts very much as we did in our first report, and describing the difference in general terms, he says* that in the middle and north-western states the county is relatively less important than in the southern states, the township less important than in New England. The township organization and the township meeting, as known in New England, he thinks were derived from England, being little else than the parish meeting modified by circumstances so as to become the basis of complete local self-government. The annual town meetings are held in the spring, and this, he thinks, is a reminiscence of the Easter Vestry of England. The name of moderator, given to the presiding officer, recalls for him the ecclesiastical meetings of the Commonwealth. The select men, he says, are the churchwardens or select vestrymen called into fuller activity than they exerted in England even in the seventeenth century. In New England, he says, the county authorities have no other authority over the towns than that of apportioning the county tax amongst them. In this he is somewhat mistaken. In Massachusetts at the present day, as was shown in our first report, the county commissioners have considerable powers, and may even supercede the town authorities under certain circumstances. The New England system, Mr. Bryce thinks, resembles that of Old England as the latter stood during the centuries that elapsed between the practical disappearance of the old county court or shire moot, and the creation by comparatively recent statutes of such intermediate bodies and authorities as the poor law unions, highway districts and boards, and local sanitary authorities. He is certainly right in saying that any American system, complex as it may seem to a mere casual observer, is much more simple than that which even now exists in England.

It will probably be found most convenient to describe the municipal systems of two or three of each of the groups of states in which the systems are similar.

THE SOUTHERN SYSTEM.

In the southern states the county is the municipal unit. The government, by quarter sessions established in Virginia, extended to the other southern states, and probably because it is best adapted to their conditions and circumstances, it has survived in a modified form to this day. In Kentucky, for example, every county is divided into districts, each of which elects two justices of the peace. These justices meet once a year at the shire town as a court of claims, the county judge, who is also elected, presiding. They may hold special sessions also. At their sessions they provide for the erection, repairs, maintenance, and management of the court house, gaol and other county buildings, and for the construction or repairs of all roads and bridges which they regard as of importance to the county. There seems to be no other authority competent to deal with

such matters, and many of the roads are private property and maintained by tolls. The court appoints the county officers and fixes their salaries; it levies taxes to meet all county expenditures; it examines and allows all claims against the county, and audits all accounts by means of persons appointed for the purpose. It is also authorized to assist in the construction and extension of railroads by taking stock or otherwise, and to make such regulations for the management and government of local affairs as are necessary.

In all those states cities are incorporated by special charters. The charter of the city of Louisville provides that the city shall every ten years be divided into twelve wards, the population of which shall be as nearly as possible equal; the wards shall be reconstructed if the census show that this is necessary in order to maintain the equality of population. Each ward elects an alderman and two councilmen, who serve two years, one half going out each year. The aldermen constitute one board of council, the councillors another. Each elects its own president and clerk. The engineer who has charge of all the work ordered by the council, the assessor, receiver of taxes, treasurer, and auditor are appointed by what is called the general council, that is, the members of both boards in joint session. The general council elect six citizens for three years, who, with the mayor, constitute the board of commissioners of public charities and corrections, and manage the marine hospital in trust for the state, the almshouse, pest house, city workhouse, house of refuge for females, and any other charitable institutions or places of reform or of punishment, appointing superintendents, matrons, guards, and other officers. The council cause wells and cisterns to be dug and walled, fire plugs and attachments to the street water pipes on the public ways to be placed, and apportion the cost against the owners of lots fronting on such ways. The council may condemn (expropriate) any property required for civic purposes, paying a fair price to the owners. Gas is supplied to the city by a company with a capital that may be increased to \$5,000,000. The council are authorized to purchase the works when the charter expires, and to raise money for the purpose by the issue of debentures. Water is supplied by a company of whose stock the city has taken 5,500 shares of the par value of \$100 each. In this stock the sinking funds of the city are invested. The council are empowered to authorize the construction and operation of a street railway on such terms as seem proper. The cemeteries are under control of the council. They may establish a board of health, make regulations for the inspection and sealing of weights and measures, and appoint an inspector.

All these matters the council regulate by ordinance. They are also empowered to regulate wharves and landings and the charges for their use, and to improve, repair, and extend them; to provide for widening, deepening, and extending the harbours in front of the city, and for making basins and other improvements; to establish and regulate ferries, markets and market-houses; prevent forestalling, and the sale of unwholesome or impure articles; regulate the public ways, grounds and buildings; license and regulate public vehicles and transportation companies; license and regulate various kinds of business, and generally make such regulations for the health, order, and good government of the city as are usual. An ordinance must treat only of one subject, and when any change is desired an amendment cannot be made, but the ordinance must be repealed and another passed in its stead. An ordinance cannot pass until it has been read at two several meetings. Propositions for raising money must originate in the board of councilmen, but relevant amendments may be made by the board of aldermen. No individual company or corporation can be exempted from duties or burdens borne by others, nor can any exclusive privilege or indemnity be granted, except such as the law of the state expressly permits. The mayor may, before "the day of the next regular meeting" of the council, disapprove of any ordinance, and return it to the council with his objections in writing. It must then be reconsidered; if passed over his "veto" by a vote of two-thirds of each board it becomes obligatory.

The duties of the mayor are of the usual character, but he is head of the police, and it is his duty "to watch the indications of any threatened or meditated breach of law or occurrence of calamity, and to exert these powers in time, if practicable, to avert them." The mayor lets all contracts; he is elected for three years, and cannot be re-elected until three years after the expiration of his term.

The auditor is, perhaps, the most important of the city officers. The charter provides that no money shall be drawn from the city treasury except upon the warrant of the auditor, drawn in pursuance of appropriation made by ordinance. The ordinances prescribe how this power shall be exercised.

The auditor is declared to be the general accountant of the city. He keeps an account of all money paid into the treasury and of all warrants drawn upon it, and he reports to the council at each session the warrants drawn since the previous session; he makes other returns periodically; he examines, audits and adjusts all claims against the city, and presents them to the council certifying the facts and recommending the rejection or allowance of each claim, giving his reasons therefor. He has not, however, the power which the comptroller has in some cities of refusing to pay claims which he believes to be improper even after they have been "allowed" by the council.

The cost of the original construction of any street, road, lane, alley or avenue is borne by the owners of lots in each fourth of a square, each sub-division of territory bounded on all sides by principal streets being deemed a square; the corner lots pay more than others. The cost of making or reconstructing sidewalks, including curbing, is apportioned to the foot front. The council may allow the proprietors themselves to make improvements under the supervision of the city engineer.

The cost of repairing and cleaning streets, not to exceed 30 cents on each \$100 worth of property, is raised by general assessment. The terms and conditions on which contracts are to be made are fully and minutely set forth in the ordinances, as are also the regulations for the use of the streets. For the purpose of sewerage and drainage the city is divided into districts; the council provides a system of sewers and drains for each and the cost is assessed on all the property. A private party desiring to have a drain constructed with use of the city sewers, applies to the engineer, who lays the drain when the applicant has deposited with the city treasurer the estimated amount of its cost.

Parks and pleasure grounds may be provided for each district, but the ordinances establishing them must be submitted for approval to the qualified voters at a general election. The mayor, the president of each board of the general council and the chairman of the police committee of each board constitute a board of police commissioners without pay.

To raise the necessary revenue the city imposes an *ad valorem* tax on lands and improvements and on certain kinds of personal property, a license tax on certain trades and occupations and the use of certain articles, and a head tax of two dollars a head on all resident males more than twenty-one years of age. The *ad valorem* taxes must not exceed for city purposes 85 cents on \$100; other taxes may be imposed for special purposes; for the support of schools, 30 cents; for the interest on various railway bonds, 30½ cents; for the sinking fund, 40 cents, and for various other purposes not exceeding in all, 75 cents. These taxes are levied on all real estate and all personal property including household furniture, plate, pictures, statuary, watches, jewellery, musical instruments, carriages, horses and libraries, the plant of gas, electric light, telegraph and telephone companies, and the tracks of street railroads. For some purposes all securities and accounts for moneys loaned, all bonds, mortgages, lien notes and notes discounted or bought from others, and time deposits with a bank are subject to taxation. The exemptions are regulated by statute, and they appear to be comparatively few.

Stocks in trade are not taxed, but all merchants and dealers doing business in the city are required to take out license. There are thirty-five classes of business license exclusive of tavern and saloon licenses. A merchant who takes a first class business license for which he pays \$2,500 a year, is authorized to sell goods to any amount. The holder of a second class license pays \$2,300 a year, and is authorized to make sales not exceeding \$2,300,000 a year; a third class license which costs \$2,100, authorizes sales to the extent of \$2,000,000 a year and so on, the holder of a thirty-fifth class license paying \$5 and being authorized to make sales not exceeding \$1,000 a year. Any dealer selling more than his license authorizes is required to take out another license. An inspector of licenses is authorized to require all applicants for license to make oath as to the amount of their sales for the preceding year. This somewhat resembles the Montreal system,

which substitutes a business tax for the tax on personal property. There is no income tax. The assessor values all property subject to taxation. All persons liable to taxation are required to furnish a list of their personal property and investments under oath. In other Southern cities all persons doing business are required to pay heavy license fees, the amount of which in each case is determined by the character of the business and the amount of capital invested. This system, it is alleged, discourages enterprise.

In Louisville the council still holds in its own hands nearly all powers, legislative and executive the only check on it being the mayor's power to veto. In other southern cities this, which may be called the older system, still prevails, as for example, in

SAVANNAH,

The City Council of Savannah, Ga., consists of a mayor and twelve aldermen, who are chosen by ballot annually by the electors of the city at large; the mayor presides at its meetings. Candidates must have paid their taxes or have sufficient real estate to satisfy all such taxes. Although residence and citizenship are the only qualification of electors, it is required that they be registered. The council are authorized to lay out, open, and establish new streets, lanes, ways, or squares, to extend or straighten any street or lane, to remove all nuisances and all encroachments, to construct a proper system of drainage, to erect and manage public markets, to establish and manage a police force, to abate nuisances, to license and regulate all those classes of business usually regarded as requiring especial regulation and all places of amusement, to establish quarantine and make health regulations, to construct, operate, and work carriage railways, or to farm the privilege to individuals or companies, to make such by-laws as are usually found necessary, to make such assessments and lay out such taxes on all the real or personal property as may seem to them expedient for the safety, benefit, convenience or advantage of the city, to borrow money and contract loans for the public good, to subscribe to works of internal improvement, which in their judgment may be to the interest of the city, and to issue bonds and pledge the property, faith and credit of the city for the payment of such subscriptions, provided, such subscription or outlay be recommended by a public meeting of the citizens called for the purpose. The gaol of Chatham county is under the control and management of the mayor and aldermen as commissioners of the same.

The mayor and aldermen have power to order such pavements and sidewalks and repairs of the same as they deem proper, and upon the failure of any person to comply with such order "the mayor and aldermen may have the same done and levy and collect the expense thereof by execution against the lands and goods and chattels of the owners of the lot." They have power to establish workhouses and treadmills, and to cause labour and confinement therein, and also to cause labour on the public streets by persons, whether white or coloured convicted of offences against the ordinances of the city or the laws of the state in relation to said city. The mayor or his substitute may issue a warrant for the arrest of any person charged with an offence and deal with the accused as a police magistrate may. Another article establishes a police court in which the mayor or acting mayor presides.

The Savannah fire company is incorporated and empowered to acquire and hold property and elect its own officers, but it is declared not to be independent of the city council.

THE NEW ENGLAND SYSTEM—MASSACHUSETTS.

In the New England States the powers and duties of the county government are in most cases of little importance. The greater part of the municipal work is done by the people of the towns in town meeting assembled. The legislative power of the town meeting is extensive and the people prefer themselves to do much of what is elsewhere considered properly the work of such officers as constitute the executive, leaving as little discretionary power as possible to the selectmen. Where charters have been granted to cities they in most cases merely give to bodies called councils, powers little greater than

the selectmen of the towns wielded and some of the legislative powers of the town meetings. In some, as in New Haven, the town meetings are still held and town officers elected, and the municipal powers are distributed between town meeting and council.

Massachusetts, which was the cradle of the American township system, continued to be so attached to it, that the great city of Boston did not receive a charter until 1822. Up to that time it was governed by the town meeting. The first charter did not make much change, but as the city grew, change became unavoidable, and to-day Boston has a charter of the modern American character, which places nearly all executive authority in the hands of the mayor. The counties of this state are now governed by three commissioners clothed with very considerable powers, who are even authorized to take charge of certain township affairs when the people in town meeting refuse or neglect to do what the commissioners deem necessary. An outline of the Massachusetts system will be found in our first report. As the system of taxation in Massachusetts has been regarded as a model in so many other states, and as this system is nowhere more effectually carried out, it may be well to describe it briefly.

Every male inhabitant above the age of twenty years, is liable to a poll tax. All property, real and personal, not exempt by law, is subject to taxation. "Real estate" includes "all lands and all buildings and other things erected on or affixed to the same." "Personal estate" includes "goods, chattels, money and effects wherever they are. Debts due to the person to be taxed more than he is indebted or pays interest for, public stocks and securities, stocks in turnpikes, bridges and moneyed corporations, within or without the state, the income from an annuity:" the net income from vessels engaged in the foreign trade, and so much of the income from a profession, trade, or employment as exceeds the sum of two thousand dollars a year, and which has accrued during the year ending on the first day of May, of the year in which the tax is assessed. Where money is lent on mortgage on real estate the mortgagee is taxed on the amount of the mortgage, and the mortgagor on the amount by which the value of the real estate exceeds the amount of the mortgage.

The property of the United States, of the state, of municipal corporations of common schools; the personal property of literary, charitable, benevolent and scientific institutions, and the real estate occupied by them or by their officers for the purposes for which they were incorporated; houses of religious worship and the pews therein (but any portions of such houses appropriated for purposes other than religious purposes shall be taxed), cemeteries, tombs and vaults, the property real and personal of agricultural societies, the property of a widow or unmarried woman to the extent of \$500; of any person above the age of seventy-five, and of a minor, whose father is deceased, provided that the whole estate, real and personal, of such person does not exceed \$1,000 in value; wearing apparel, farming utensils, household furniture, not exceeding \$1,000 in value; the tools of a workman, not exceeding \$300 in value; mules, horses and neat cattle, less than one year old, and swine and sheep, less than six months old, are exempt from taxation.

Banks, insurance companies, and other corporations, are required to file statements with the treasurer of the state, who is also tax commissioner, and to furnish the assessors with statements showing the amount and value of the stock held by each stockholder, the assets and net income of the companies and other prescribed information.

The assessors each year assess taxes to an amount not less than the aggregate of all sums appropriated, granted or lawfully expended by their respective cities or towns, since the last preceding annual assessment, and not provided for therein; and of all sums which the law requires to be raised by taxation, and of such sums as are necessary to satisfy final judgments recovered against such cities and towns. The assessors may deduct from the amounts to be assessed the amount of all the estimated receipts of their cities or towns which are lawfully applicable to the payment of the expenditures of the year. The amount of interest on debts incurred in promoting the construction of railroads is also to be included.

The assessors, by public notice, call on all the inhabitants of the town (or city), to bring within a time specified, "true lists of all their polls and personal estates not exempted from taxation," and may require them to include their real estate. The person

bringing in a list must, in every case, make oath that it is true. The assessors shall receive as true, except as to valuation, the list thus brought in, unless the person bringing it refuse, when required by the assessors, to answer on oath all necessary enquiries as to the nature and amount of his property. The assessors, ascertain as nearly as they can, all particulars as to the property of those who do not bring them a list and make an estimate of its value, to the best of their knowledge and belief, and this estimate is final in such cases, unless a reasonable excuse for the omission can be given. The assessors make a fair cash value of all the real and personal estate. They may include the state, county and town taxes in the one assessment. Statements of the amounts to be assessed for state and for county purposes, are sent to the assessors by the proper officers. The state treasurer sends them a statement of all the chartered companies doing business in the several districts.

The duties of the assessors are minutely prescribed. When, all appeals and objections having been heard, and such changes as they deem just having been made, their tax list is complete, they hand it to the collector with their warrant. This specifies the duties of the collector, and the times when, and the person to whom, he shall pay over what he has collected. The assessors also make returns to the tax commissioner, who, finally determines what each bank, doing business in any city or town, must pay, not only to the state, but also to the city or town. The state tax on savings banks, is one-half of one per cent. on the average amount of the deposits. Co-operative saving funds and like associations, pay to the state one-quarter of one per cent. on the amount of the monthly dues paid by their shareholders. Insurance companies pay to the state, one-quarter of one per cent. upon a valuation equal to the aggregate net value of all the policies in force, on the next preceding 31st of December. Railroads and other corporate bodies, not previously mentioned, enjoying any franchise, whether chartered by the commonwealth or organized under general laws, pay upon the true market value of all their property, including their franchises as determined by the tax commissioner—a tax equal in rate to that which has been generally imposed for state purposes. In like manner, the property of companies, co-partnerships and associations, mutual fire insurance companies, trust and loan companies, are taxed. The collector pays over the sums he collects for state, county or town, (or city) purposes to the proper treasurer. A city or town may appoint its treasurer collector. The collector is required to exhibit his accounts once every two months to the mayor and aldermen in cities, and to the select men in towns. As we showed in our first report, the audit of all municipal accounts, seems to be strict and thorough—the state which is directly interested, exercising careful supervision in addition to that which the municipal authorities themselves are required to exercise.

VERMONT.

In Vermont, a few years ago, the constitution provided, that the assistant judges sheriffs, state attorneys, judges of probate, and justices of the peace, be elected by the freemen of their respective counties or districts. The amount of work done by any county authorities was very small; court-houses, gaols and other county buildings were held in the name of the county. They were under the care and superintendence of the judges of the County Court, who had authority to acquire, or to sell, lease, or otherwise dispose of property for the county; to repair and improve the buildings, to appoint the county clerk and county treasurer, to examine and allow all claims against the county, and to audit the accounts of the treasurer and other county officers. Towns assessed themselves, and the tax imposed by the town meeting was apportioned by the selectmen, or others appointed by the meeting; but taxes for county purposes were assessed by the general assembly, and the county treasurer, appointed by the county judges, was the collector. Roads or bridges between townships, were constructed or repaired by the township authorities acting together. If, in any case, anyone was dissatisfied with their action, or with their refusal to act, he may apply to the County Court for the appointment of a special commission. This seems to be the very minimum of county government. The county system of Rhode Island is somewhat similar.

 THE MUNICIPAL SYSTEM OF CONNECTICUT.

Although several changes have been made of late years the municipal system of Connecticut is in many respects peculiar. The constitution provides that each town shall annually elect selectmen, and such officers of local police as the laws may prescribe. Formerly the constitution required that the elector should have a small property qualification—real estate assessed at \$9 annual value, or personal property assessed at \$100. Now the constitution, and an Act of the Legislature, provide that every male citizen of the United States, who shall have attained the age of twenty-one years, who shall have resided in the State for a term of one year, next preceding, and in the town in which he may offer himself to be admitted to the privilege of an elector, at least six months next preceding the time he may so offer himself, and who at the time of offering himself shall be able to read any article of the constitution, or any section of the statutes of the state, and shall sustain a good moral character, shall on taking the oath prescribed by law be an elector. The elector must have his name duly registered.

TOWNS.

The town meeting has the chief municipal power in all places outside the cities, which have special charters, and even in such cities "the town" still exercises much authority. The laws relating to town meetings enact that a town meeting shall be held annually in every town on the first Monday of October, for the election of officers, and that special meetings shall be convened whenever the selectmen think necessary, "or on application of twenty inhabitants qualified to vote." The warning of every town meeting, annual or special, must specify the purpose for which it is to be held, and a printed or written warning signed by the selectmen, or a majority of them, and set upon the sign posts in the town, at least five days previous to the holding of the meeting, is sufficient notice thereof. The selectmen are bound under personal penalties to keep those sign posts standing and in good condition. In towns which do not vote for officers in districts or in which the law does not otherwise provide, the selectmen and town clerk may appoint the moderator of the town meeting. If they fail to do so the meeting elect a moderator. Every town elects a town clerk, a town treasurer, two auditors and a collector of town taxes, a board of relief of not less than two or more than five members, not less than three nor more than seven selectmen, not less than two nor more than six grand jurors, not more than seven constables, a treasurer of the town deposit fund, and of other town trust funds, an agent or agents of the town deposit fund, surveyors of highways, haywards, gaugers, packers, sealers of weights and measures, two or more public weighers, a pound keeper for each pound and other ordinary town officers. All hold office for one year as the constitution prescribes. The number of school visitors prescribed by law are also elected at the annual meeting. Assessors, members of boards of relief, selectmen, town clerks, town treasurers and some other officers must be elected by ballot, but much discretion as to the number of officers the manner of their election and the places of holding the meetings is left to the electors in town meeting assembled.

An Act of 1887 introduced the minority representation principle. It provides that when the number of assessors or number of the board of relief or selectmen to be elected shall be two, four or six, no person shall vote for more than half the number. If the number elected be three, no one shall vote for more than two. If the number be five, no person shall vote for more than three. If the number be seven, no person shall vote for more than four. When a town is divided into districts, the auditors are elected on the general ticket. The town clerk makes a return to the Secretary of State of the persons elected to the more important offices. Those who are elected forfeit sums ranging from \$5 to \$50, if they refuse to serve. Elections may be contested in the Superior Court and an appeal may be had from its decision to the Supreme Court of Errors.

The selectmen superintend the concerns of the town, adjust and settle all claims against it, and draw orders on the treasurer for their payment. They keep an account of all expenditures and exhibit it at the annual town meeting; they make an annual return to the governor of the deaf and dumb and blind in the town. They appoint one or more persons to examine the records, and they appoint special constables when they think necessary.

The duties of the town clerk are multifarious. He not only keeps a record of all the proceedings at town meetings, and meetings of the selectmen, and has the custody of all documents of value to the town, and performs all the duties respecting elections that devolve upon him, but he acts as registrar of all deeds mortgages, releases of mortgages, mechanics' liens, and attachments of real estate. This is, probably, a survival of the intimate connection between judicial functions and municipal institutions which existed in England for so many centuries. The duties of the treasurer are of the usual character. His books are open to the inspection of every taxpayer, and are presented at each annual town meeting, having first been adjusted by the selectmen. He calls on the justices of the peace for an annual account of the fines, penalties and forfeitures, received on judgment by them. The auditors examine and verify the town accounts, and prepare them for publication.

The grand jurors are town officials. They are elected and sworn, as other officials, to discharge their duties. The law says that they shall diligently enquire after and make due complaint of all crimes and misdemeanors that shall come within their knowledge, except in towns where, by law, those duties devolve on other officers exclusively: and said complaint shall be made to the court having cognizance of the offence, or to some justice of the peace in the town in which the offence was committed. They may make complaint of the violation of any by-law, imposing a penalty, to a justice of the peace. They may require any person, informing them of the commission of a crime, to make information under oath. The grand jurors, of any town, may meet to advise concerning offences committed therein, may call any witnesses to be examined, touching the same, and any witness refusing to be sworn, or to answer their questions, may, on complaint to a justice, be committed to gaol until he give evidence as required. When they so meet the grand jurors have the same power as a justice of the peace to commit for contempt. Any town neglecting to elect grand jurors forfeits \$20 to the county in which it is situate.

The town clerk is *ex-officio* registrar of births, marriages and deaths, and has ample power to enforce a proper registration. He is also issuer of marriage licenses, and of burial permits. Any town may make such by-laws as it thinks necessary to render the registration more perfect.

"Towns may make such regulations for their welfare, not concerning matters of a criminal nature nor repugnant to the laws of the state, as they may deem expedient, and enforce them by penalties not exceeding \$5 for one breach." Each town shall provide itself with a seal. "Any town may take land which has been fixed upon as a site, or addition to a site, of a town-house or hall," paying to the owner such sum as may be agreed upon or awarded, and erect suitable buildings thereon; and may lay out, inclose, and improve any lands belonging to it, not in an incorporated city, for a public square or common, and may purchase any land within its limits for that purpose.

Any town may establish and maintain a fire department, may make appropriations and lay taxes for its support, and pass by-laws to govern the same, and protect the property within its limits from fire; may make by-laws to regulate and preserve sidewalks, to regulate the taking and preservation of birds, to regulate the fisheries of clams and oysters within its limits, to regulate the licensing of auctioneers, and the inspection of illuminating oils. Any town may offer a bounty of not more than \$5 for killing each wild-cat or fox, and of not more than \$1 for killing each skunk, racoon, weasel, or woodchuck. These bounties are paid out of the surplus remaining from the amount received for dog-licenses during the previous year." It may make an appropriation for the observance of decoration day, and for the erection of a monument to the memory of the soldiers and sailors who have died in the service of the United States. When it has made appropriations or incurred debts exceeding \$10,000, a town may issue bonds, payable at such time as it may determine, at a rate of interest not exceeding six per cent. A town may establish and maintain a free public library and reading-room, impose penalties for injuring or withholding books, and lay a limited tax for the support of such library, which must be managed by a board of six directors, two of whom shall be elected at every annual town meeting. Towns must establish and support public schools, raising by taxation so much as is required in addition to what is paid by the state and from the

school fund. When a city or borough, situated in a town, is organized for school purposes, the taxation by the town for such purposes is limited. The town may be divided into school districts if the town-meeting so resolve, and then each district manages its own school affairs in great part. The town elects the school visitors, and these and the selectmen, acting as one body, determine what amount must be raised by taxation for the support of schools. Towns are authorized to establish high schools. A town may establish and maintain a workhouse, provide suitable buildings, direct the kind of work offenders sentenced thereto must perform, the manner in which it is to be performed, and the place, either in or out of the workhouse, and make all suitable regulations for the management of the institution. The selectmen are overseers, and appoint and direct the master. Towns are required to support the poor, either in buildings provided for the purpose, or in their own homes, and to take care of the insane.

The selectmen of any town may erect or lease a suitable building for a lock-up, may make ordinances to regulate plumbing and house-drainage, and the licensing of plumbers; may limit or prohibit coasting on public highways; may abate, in whole or in part, any assessment laid upon any horse railroad company. Every town must erect sign-posts, and a fire-proof safe, vault or building for the protection of its records. If the selectmen, or the committee appointed for the purpose, fail to agree upon a site for such building when the town-meeting has authorized its erection, or having selected a site, fail to agree with the owners as to its price, they apply to the superior court to appoint a committee, who select a site and assess such sums in favour of the owner as will justly compensate him therefor." But no part of the land of any religious or ecclesiastical society, upon any part of which a church building has been erected, shall be taken without the consent of such society. If any persons encroach upon any highway, or any land belonging to the town, the selectmen may enforce "the removal of the encroachment." When a town office becomes vacant the selectmen may appoint a person to fill it until another has been elected. It is their duty to require that all churches, public halls, and places of amusement be provided with ample facilities for safe and speedy entrance and exit, and that they be arranged so as to promote the comfort and safety of those who visit them, and they may order such buildings to be closed until "their requisitions are complied with." They may examine any proposed building or buildings in the course of erection, and make such written order relative to their construction as they think fit. The selectmen have full direction and control over the placing and maintenance of telegraph, telephone, or electric light wires, conductors, fixtures, structures, or apparatus, including the relocating or removal of the same, and including the power of designating the kind, quality, and finish thereof. But the company may appeal from their orders to a judge of the superior court. They have powers and duties as to the inspection of drains and reservoirs and the removal of obstructions in drains; as to the enforcement of orders which the scavengers may make respecting the repairing and cleaning of dams, drains, and ditches; as to the storage and sale of explosives, and as to the construction of fire escapes, which, in previous times, were discharged or exercised directly by the town-meeting, or otherwise provided for. They are also the fence viewers, and their duties as such are fully defined. They are required to see that the law respecting the licensing and registration of dogs is enforced. They appoint two game wardens in each town, whose duty it is to assist in detecting and prosecuting offences against the game laws, and who have power of arrest for any violation of the law relative to game. They are authorized to license exhibitions, auctioneers, junk shops, pawn-brokers, and itinerant physicians. They enforce the rights of the town as to unclaimed stray beasts. On requisition of not less than twenty-five legal voters the selectmen call a special meeting to determine whether any person shall be licensed to sell spirituous and intoxicating liquors in said town, and if the meeting vote that none shall be sold, then, if the town have more than five thousand inhabitants, the selectmen shall appoint one suitable person to act as the agent of the town for the purchase and sale of spirituous and intoxicating liquors for sacramental, medicinal, chemical, and mechanical uses only. In larger towns additional agents may be appointed. As members of the town board of health the selectmen have large powers; their duties with regard to schools, and to the support of the poor, are important. The selectman first named on a

plurality of the ballots cast for those elected selectmen, is, in the absence of a special appointment, the agent of the town.

The most important of the ordinary duties of the town meetings and of the selectmen are those that relate to the construction and maintenance of highways and bridges. The general act relating to these duties declares that "Towns may provide, at their annual meetings, for the repair of their highways for periods not exceeding five years," and if they neglect to do so the selectmen may provide for such repairs for a period not exceeding one year. "Towns shall, within their respective limits, build and repair all necessary highways and bridges, and all highways to ferries as far as low water mark," and bridges between towns shall be built and kept in repair at their equal expense, unless they should otherwise agree." If a town "neglect to construct or repair a bridge across a river in a highway in such town," or when a bridge should be constructed between towns or counties, or such a bridge needs repair, and the towns neglect to build or repair, any person interested may apply to the superior court, which, by itself or a committee, may make enquiry, and may appoint a suitable person to do the work; and the expenses, when allowed by the court, shall be paid by the town or towns. When a town neglects to repair any of its highways, or the selectmen neglect to have any encroachment removed, application may be made by any six or more citizens of the state to the county commissioners who may make enquiry, may, after enquiring, order the work to be done, and if it be not done thereupon may cause the work to be done, and may issue a warrant against the selectmen to collect the amount so expended. Any person aggrieved by the decision of the county commissioners may appeal to the superior court. If a borough is situate within a town the town pays to the borough such share of the highway tax as may be agreed upon between the selectmen and an equal number of burgesses. If they do not agree, the county commissioner residing nearest to, but not in the town, settles the matter by his casting vote. Selectmen may be authorised, by town-meeting duly warned, to cause all bushes and branches of trees that interfere with the use of the highways to be cut, and they may authorise the planting of trees along the highway, and the construction of troughs for watering animals; they are required to put up sign posts.

The selectmen, after due notice to all concerned, may lay out necessary highways for public or private use. Compensation must be made to the owners of property, and time to appeal must be given to anyone aggrieved. Highways cannot be laid out within one hundred yards of a railroad track without the order of the Superior Court, except those which cross the railroads. The grade of a highway may be changed. In all those cases damages and benefits are to be assessed. Benefits are to be assessed when a road serves as a dyke to prevent the overflow of the tides on low lands. When the selectmen refuse to lay out a necessary highway, or to make any necessary alteration in any existing highway, any person interested may apply to the Superior Court, which may appoint a committee of three interested persons to make enquiry, and, if they see fit, to lay out the road. Objection may be made to the report of the committee, and in such case the sheriff is ordered to summon a jury of six, who shall hear evidence, and make a report; this report, if confirmed, is final. If the town neglect to lay out a road, when ordered by the courts, the court may order it to be constructed, and on application of the State's attorney, grant a warrant against the town to collect the expense of the alteration or construction. Provision is also made for the discontinuance by the selectmen of any highway within a town, and for compelling a turnpike company to repair any part of a turnpike within a town, or any bridge thereon that has become unsafe.

The provisions respecting the power of the town meeting "to levy" taxes must be sought in several statutes. The Highway Act provides that "any town may establish highway districts, and levy highway taxes and appoint collectors thereof, and may include in its town tax a sum sufficient to build and repair the highways and bridges thereof." It also provides that "when there is a borough within the limits of a town, the town shall pay to the borough such part of the sum collected or appropriated by the town for the repair of highways as shall be agreed upon," or determined in the manner provided. The liability of the town to keep the highway within the borough in repair thereupon ceases, but it is still liable to make and repair all bridges in the borough. There seems to be no

limit set by law to the amount which a township meeting properly convened may appropriate for any of these purposes, or to the amount of the tax it may impose for such purposes, or to the amount of indebtedness it may incur. It seems to have been thought necessary to guard rather against parsimony than against extravagance, and therefore the law provides that if the town neglects or refuses to impose the necessary taxes, they may be imposed by the selectmen; if a town refuses to provide for the repairs of a road or bridge, the county commissioners may cause that work to be done and paid for, and if a town and its selectmen refuse to construct a necessary road or bridge, the Superior Court may order such work to be done, and enforce payment of the cost.

A comparison of the municipal laws in the Revised Statutes of 1888 with those of the Revised Statutes of 1866 shows that in Connecticut the tendency has been of late years to separate the executive from the legislative functions, even in the towns, and to substitute general for special legislation. The town meeting has large legislative powers, and, subject to the restrictions we have stated, determines each year what improvements shall be made, what new work undertaken, and what taxes shall be imposed. But all it orders is done by the selectmen, who only account to the town for what they have done at the general annual meeting; and the other elective officers render account to the town through the selectmen.

CITIES.

In Connecticut there are eight counties, the boundaries of which are fixed by statute, nine cities, twenty-three boroughs, and one village. The cities, boroughs and villages are described as being each in a town of the same name. The town system extends to the cities and boroughs which, for the purposes of town government, form part of the towns in which they are situate. The substitution of general for special legislation renders it necessary to make special exceptions as to the time at which town meetings shall be held in New Haven and Bridgeport, as to the hours at which town meetings may be held in these cities, and in Hartford, Waterbury and Norwalk, as to the officers to be elected in the cities and some towns, the term for which some officers are to be elected, and other matters. These exceptions, which are necessary in order to preserve such provisions of the special charters as relate to those matters, show how largely the town system is still in operation in the cities.

The inhabitants of cities do not hold meetings for any other purpose than that of electing the city officers. Such meetings are warned as the charter in each case provides. The powers given to city councils by general Acts are almost precisely the same as are given to towns. In some cases the general Acts provide that cities to which special powers in such respect are not given by charter, shall have such power as to the laying out, altering and discontinuing of highways as are given to towns, and that the assessment of damages and benefits shall be made in the same way. The mayor and aldermen of cities, when they have any complaint to make respecting railroad bridges, railroad crossings, or the insufficiency of the means provided for the public protection, or disapprove of a proposed track or grade, or desire a change of grade or of track to be made, can only apply, as the selectmen of towns can, to the railroad commissioners appointed by the state. They have authority to permit locomotive power, other than that of horses, to be used on street railroads, and have power to compel the companies owning such roads to keep them in repair. The only power which the general Acts give to a city, and not to towns, is that of appointing a fire marshal who may enquire into the causes of any fire that occurs within the city by which he is appointed.

The general Acts do not define what a borough is. The boroughs, which are probably towns having a population smaller than that of any of the cities, were it would seem first created by charters. A borough is governed by a warden and burgesses, whose general powers seem to be the same as those of the mayor and aldermen of a city. The general Act gives to such boroughs, as did not previously possess it power to lay out, construct, extend, and repair highways, and to have damages and benefits assessed as in towns; but the town in which a borough is situate levies all taxes required for the construction and repairs of all the highways, streets and bridges in the town. The town may pay to the borough such part of the sum thus raised as may be agreed upon or

settled by the award of a county commissioner.* The money so received is expended under the direction of the warden and burgesses.

The construction of waterworks by municipalities is provided for. Cities which have harbours have power to make certain regulations for their management. Cities and boroughs have their own courts. The jurisdiction of those courts is not the same in all cases in Connecticut. The judges of the common pleas are nominated in either branch of the general assembly by "a concurrent resolution." The resolution to have effect must pass both houses. The eleven judges of the superior court, including the judges of the supreme court of errors, are appointed by the assembly upon the nomination of the governor. It may be well to note that the judges of the supreme court, which are empowered to settle and determine so many municipal affairs and even to cause municipal work to be done, in some cases, are not as in some other states elected by the people. Of the organisation of the police courts and their jurisdiction, it is difficult to learn much more from the "General Acts" than that they differ in different places. One general Act says,† "the several city, borough, police and town courts and the officers thereof, shall have all the powers and jurisdiction which shall have been conferred upon them, and shall be subject to all the duties imposed upon them by law and by the charters of the respective cities and boroughs; and appeals from the judgments of said courts shall be taken and allowed in the manner provided by the laws in force on the 31st day of December, 1887, except where it is otherwise expressly provided in this Act." The constitution provides that the judges of such courts shall be appointed for two years. The police magistrates possess the same power in criminal cases as other justices. Their duties when parties are prosecuted for violation of the laws relating to noxious weeds; of the liquor laws, of the laws respecting the sale of drugs, or relating to vagrancy, and to the licensing of physicians; or when sick prisoners are to be released, or insane criminals are to be disposed of, are defined in several Acts. They may commit to the industrial school for girls, to the temporary home for children, and to the State reform school, those who in their judgment should be sent to those institutions, and they may issue warrants for the arrest of persons liable to extradition. Special powers are given to the police courts, of Hartford, New Haven and other cities. The duties of policemen in certain cases are defined by some of the Acts, but there is no general Act respecting the establishment, organization, and duties of a police force. The special Acts of the State Legislature have for many years been, to a great extent, amendments of the charters of the cities and boroughs. Some readjust the division of cities or boroughs; some increase the powers of the council, which were at first very limited in most cases; some give power to the police magistrate, who is always appointed by the general assembly to hold a court once a month for the trial of civil causes, in which the amount at issue does not exceed \$500; some take away from the police magistrate the right to try such causes and provide that they shall be tried in the court of common pleas; some authorise the council of a city or borough to construct waterworks and to borrow money for the purpose. In such cases, the Act generally provides that the works shall be constructed and managed by commissioners. In some cities the construction, extension, and management of sewers is also placed by law under the control of commissioners. In some cases companies are incorporated to construct and manage waterworks. Several special Acts that incorporate street railroad companies, describe the streets and places on which they are to construct their ways and define the relations between those companies and the city councils. The time at which elections shall be held and the manner in which they are to be conducted seem to require much legislation, and not a few of those statutes are passed to legalize something illegal, or to make amends for some omission or some blunder committed by some town meeting, with regard to the imposition of a tax or the election of a collector or other officer. In some cities the members of the council are all called aldermen; in others, all are called councillors; in others, some are aldermen and some are councillors. In all cases there is but one board of common council, and in a city the mayor presides, in a borough the warden. The borough corporations are designated, "the warden, burgesses and freemen." In a few of the cities the council seems to have

* Gen. Statutes 1888, Sec. 2679. † Gen. Statutes of 1888, Sec. 709.

all necessary power to make by-laws for the good government of the city. A few years ago it was found necessary to pass a special Act to authorise the council of the city of New London to make by-laws respecting the licensing of the sale of merchandise at particular seasons, by persons who temporarily occupy store-rooms, sidewalks, or street corners. In some cities the councils are authorised not only to make improvements and repairs, but also to impose taxes within certain limits for the purpose. In others as in Stamford and Meriden, the mayor and council are required to prepare a full statement of the receipts and expenditures of the year and of the total indebtedness to be submitted to the regular annual city meeting, and also estimates of the expenditures they think necessary in the coming year. The meeting may approve of the estimates or change them, and may authorise the council to make appropriations to the amount of each estimate as fixed. The council have no power to expend more or to incur any liability in excess of the estimates on behalf of the city. In Stamford all questions which involve an expenditure of money to the amount of \$1,000, must be determined at the city meeting by ballot. In boroughs the tax for the construction, extension, repair or improvement of highways, bridges, sidewalks and sewers is laid by the town, and until of late the means by which it may be determined what share of the money so raised should be paid to the borough, if the borough preferred to do its own work were not always the same. Boroughs may tax themselves for special purposes if they choose at special meetings of the freemen, and appoint assessors and collectors. Those who desire to see what a great variety of forms municipal government may assume, even within narrow limits, would find the special Acts of Connecticut for the last thirty years interesting. In no case, however, that we have been able to discover has a general power to incur debt to a large extent been given to city or borough. Authority to borrow must be obtained from the legislature, even when the work proposed is manifestly necessary. In 1877, it was deemed desirable to put a check on the town of Hartford, which the law did not previously provide, and it was enacted that it should not have power to appropriate or authorise the expenditure of more than \$10,000 for any purpose whatever, other than providing for the ordinary annual expenses of the town, unless a vote or resolution authorising such expenditure were proposed and passed at a town meeting duly warned and holden for that purpose, and approved by a majority vote at another town meeting duly warned and holden for that purpose.

COUNTIES.

The government of counties in Connecticut is peculiar. Three county commissioners are appointed at different sessions by the general assembly and hold office for four years. These have authority to take any land that may be required for county buildings, just compensation having been made to the owners; the amount to be settled by agreement or determined by process in the superior court. They manage the county estate, and sell or purchase real estate on behalf of the county; they appoint the county treasurer; they keep a record of all transactions; they purchase supplies for the county institutions by a system of public advertisement, when so directed by the county senators and representatives; they publish the accounts of the county in at least one newspaper of the county, on or before the first of December of each year; they at the same time make a report in detail to the secretary of state, respecting the gaol or gaols and the prisoners, giving their number, sex, colour, age, place of nativity, and all other particulars usually given in such reports. The commissioners have no charge or control of the roads or bridges of the county, except that when complaint is made that necessary repairs are not made by the township authorities, or encroachments are not removed, they may, on having made proper enquiry, order, and if necessary cause such repairs to be made or encroachments to be removed. When it is necessary to compel the owners of a turnpike to make necessary repairs, a county commissioner is associated with the turnpike commissioners. Two county commissioners may after hearing all interested, authorise a company to erect or place electric wires, conductors, fixtures, structures or apparatus upon any road or public ground, notwithstanding any objections that may be made by the proprietor of the adjacent land. They may issue licenses for the sale of intoxicating liquors in those towns in which such sale is permitted. The license fee is fixed by the commissioners. It must

not be less than \$100 nor more than \$500. This fee the commissioners collect. They pay five per cent. of all they collect to the county treasurer, and of the rest, they pay to the treasurer of each town the amount received for the licenses given in the town. They may in any case revoke a license for cause. They must make an annual report to the state secretary of the licenses issued by them. They receive fees for their services in these as in other matters.

Each county is required by an Act of 1883, to provide at least one temporary home for children between the ages of two and sixteen who are waifs, strays, the children of prisoners, drunkards or paupers, or of those committed to hospitals, almshouses and workhouses, and for all children of such age who are deserted, neglected, cruelly treated or dependent. Such houses must be at least half a mile from any penal or pauper institution, and no pauper or convict is permitted to live or labour in them. The county commissioners with a member of the state board of charities and a member of the state board of health are a board to locate, organize, manage, and supervise the home in each county. Buildings may be leased, purchased or erected; existing orphan asylums may be used, or the children may be distributed amongst private families. A stated sum may be recovered in each case from the town which would be bound to support the child if a pauper; any further sum required is raised as other county taxes are. The commissioners have powers and duties that can scarcely be regarded as municipal in character, such as assessing damages caused by the United States coast survey, the making certain orders in divorce suits, and the review of proceedings for taking a poor debtor's oath.

The chief duties of the commissioners are to provide accommodation for the superior and common pleas courts when there is no proper place therefor, and to superintend, and control the management of the gaol or gaols of the county, and of the county workhouse, if there is such an institution in the county. The sheriff has charge and custody of the gaol while there is no deputy-gaoler. The sheriff may appoint a deputy-gaoler and such keepers and other officers as may be required, the number being fixed and limited by the commissioners. The commissioners may employ a chaplain and prescribe his duties and compensation. They fix the sum to be received for boarding prisoners not exceeding \$2.25 per week, (which is paid to the county treasurer) and the compensation of the sheriff if he acts as gaoler, or of the deputy-gaoler, and of all the other employes and prescribe their duties. The commissioners may dismiss any of the employes. The commissioners cause suitable bedding and fuel to be furnished for prisoners committed on criminal process, and such implements and material as may be necessary for employing and keeping such prisoners at work, and prescribe rules for their management, government, discipline and employment. If the county establishes a workhouse the county commissioners have charge of that also.

The commissioners, when it is necessary to repair a court house or gaol, and the funds in the county treasury are not sufficient, may if the whole cost do not exceed \$600, make an estimate of the expense, record the same in the superior court, and apportion the amount amongst the towns of the county. But such sums in excess of \$600 as may be required for repairs, such sums as may be required for the purchase of land, and the erection of buildings, and such sums as are required for the support of the temporary home for children for the support of a workhouse, if one is established, and for the support of the county gaol in addition to the amount collected from prisoners for their support, or received as the proceeds of work done by the prisoners are raised by a general county tax which is imposed in a peculiar way. When the commissioners deem it necessary to levy such a tax, they call a meeting of the representatives, for the time being chosen to the general assembly, from all the towns of the county, and the senators resident in the county who may impose such tax as may be deemed necessary upon such towns . . . in proportion to their respective lists. If any town neglects to pay the amount apportioned to it by the time prescribed, execution against the goods and estate of that town may be issued by the clerk directed to the sheriff. The senators and representatives of the county meet at the state capital on the third Tuesday of every January, elect their chairman, appoint two of their body to audit all the county accounts, make specific appropriations for all county expenditures, they judge necessary during the year, and lay "any tax upon the towns of the county for any county purpose." For

their services at this meeting, held during the session of the assembly, they receive no compensation. The county commissioners are paid for all services of a personal character, by the parties interested, four dollars a day and mileage at the rate of three cents a mile. They are paid by the county for their public services at the same rate, but they cannot charge for more than one hundred days in any one year, except in the counties of Hartford, New Haven and Fairfield, in which they may charge for services not exceeding one hundred and fifty days in the year. As late as 1866, the county commissioners were expressly authorised by law to issue a license to sell liquor to the person in charge of a gaol ; now the sale and use of alcoholic liquors in gaols are forbidden.

APPOINTMENTS.

The governor of the state nominates and with the advice and consent of the senate appoints three railroad commissioners, who are appointed at different times and hold office for four years. The powers of these commissioners are large. Besides the powers which they exercise of their own motion, they may on application of the municipal authorities of any city, borough, or town, order a gate or electric signal to be erected, or a flagman to be stationed at any railroad crossing within any of the limits of the municipality. They authorise the crossing of highways by railroads, or the diversion of highways after due notice to the municipal authorities, and regulate location and grades and the construction of overhead bridges. When the municipal authorities think that the location of a railroad, where built near a highway should in the public interest be changed, they apply to the railway commissioners, who may order such change to be made at the expense of the railroad company. In the same way the municipal authorities may apply for and obtain an alteration in a railroad crossing—of a highway—and in its approaches, in the method of crossing, in the location of the highway, or of the railroad ; or the removal of obstructions to the sight at such crossing. They may also obtain an order that the railroad shall not use its tracks for switching purposes where they cross any public street, or highway, or lay side tracks at such places, and an order that trains blow their whistles when approaching certain crossings.

The senate appoint biennially two or three commissioners for each turnpike, whose duty it is to see that the road is kept in proper condition, and that all the provisions of the law respecting such roads are carried out. These are paid by the company three dollars for every day on which they are employed in any business connected with the road. The turnpike commissioners cannot authorise any change in the location of the road or in the position of the toll-gates, unless one of the county commissioners is associated with them, and the selectmen of a town may in certain cases cause the portion of a turnpike passing through the town to be repaired at the expense of the company. The senate also appoint two commissioners for each toll bridge with powers and duties similar to those of the commissioners of turnpikes.

APPROPRIATIONS—TAXATION.

The general Acts provide (title 10, chap. 39), that “ the general assembly, in behalf of the state, the representatives of the towns, and the senators resident in the several counties, in behalf of their respective counties ; every city, by its common council, when so authorised by its charter, or by its freemen, in legal meeting assembled ; and every town, borough, or school district, by legal meeting of its qualified voters, may make appropriations of specific sums of money for any purpose, authorised by law, and by the warnings of the meetings at which the appropriations are made.” Section 3870 provides that the treasurer of every city, county and borough, and the first selectman of every town, “ shall every fourth year make and return to the comptroller, who is a state official, a clear and accurate statement, under oath, of all the items constituting the total indebtedness of each municipality, on the first day of October next preceding such return ; the purpose for, and the year in which each debt was incurred ; the form in which it exists, and the time at which it is payable ; and also of the amount actually raised by each corporation, by taxation and loan, during the four years, and of the amount actually expended during the same period for interest, roads, paupers, salaries, schools, police and fire departments, and the rate, per cent., of taxes laid during that period. This return may be required in order to enable the general assembly to supervise the municipal expenditure.

The assessors in each city and borough, in which the charter does not otherwise provide, and in each town give notice to all persons liable to pay taxes, to bring in a list of all their taxable property, on or before the first of October. Parties are in all cases required to swear to the correctness of these lists, and are liable to punishment for making a false return. The assessors are not bound to accept a statement thus rendered, but may add, in any case, any property which they believe belongs to the person who makes it. All real and personal property are assessed, and a poll-tax of one dollar is levied on each male inhabitant. Personal property, the law declares, (sec. 3828), includes all notes, bonds and stocks (not issued by the United States) moneys, credits, choses in action goods, chattels, or effects, or any interest therein. Registered sailing vessels are not taxed on their estimated value, but on their net earnings during the year, and the owner must, if required, exhibit to the assessors a statement of the gross earnings, and of the disbursements. Money secured by mortgage, on real estate, must appear on the list of the lender, unless there is an agreement that the borrower shall pay the taxes.

The exemptions of real estate are very much the same as in the other states whose systems of taxation are described at greater length; the exemptions of personal property are similar, although the amount to which furniture, clothing, books, musical instruments, agricultural implements, mechanics' tools and other articles are exempt, differ in some respects. The estates of soldiers and sailors, who have been maimed in the public service, and of blind persons, are exempt to the extent of \$3,000; students, firemen, and others, are exempt from the poll-tax. Any church, or ecclesiastical society, may hold exempt from taxation personal property consisting of bonds, mortgages or funds invested, to an amount not exceeding \$10,000, if held solely for the use of such society. An appeal lies from the valuation of the assessors to the board of relief, whose members, not exceeding five in number, are elected at the annual town meeting. They equalize and adjust the valuation, making such additions or deductions as, after taking evidence, they think just, but they cannot reduce the list or the valuation of the property of any person who has not himself furnished a sworn list to the assessors, as prescribed by law. Appeal may be made from their decisions to the superior court,

When the lists have been thus corrected the town clerk sends a copy to the state comptroller; the comptroller and treasurer acting as a board of equalization, equalize and adjust the assessments lists, by adding or deducting, when they see fit, such amount as, in their opinion, will equalize the valuation of all the towns in the state; the lists so equalized constitute the general list upon which state taxes are imposed.

The body authorized to impose a tax is authorised to appoint an officer to collect it, except that taxes granted by the general assembly are apportioned amongst the towns by the state officers, and are collected by the town collectors, as part of the town taxes, and paid over to the treasurer of the state by the town. If the town neglect, or refuse to collect, the state tax, or to pay it over when collected, the state treasurer issues an execution against the estate of the selectmen, and if that proves insufficient, against the estate of the inhabitants of the town. The selectmen of towns, and the committees of other communities, make out and sign the rate bills, containing the proportion of all the taxes which each person is to pay, according to the assessment list, and on their application, a justice of the peace issues a warrant for the collection. The powers of the collector to enforce payment are of the usual character. But if, in any case, the collector cannot find property sufficient he may levy on the body of a defaulter and "commit him to gaol, there to remain until he shall pay such tax, and the legal costs, or be discharged in the due course of law." If the person, so committed is really unable to pay, he may obtain release in the same way as a poor debtor. Special provision is made for collecting the amounts for which the stocks of banks, railroads, and other corporations are assessed.

Drainage.

The drainage system of Connecticut seems simple. "When a majority of the proprietors of low lands, or when there are more than twenty proprietors, not less than ten" make application to the superior court, that court may authorize the organization as a company, of all the proprietors who would be benefited by the drainage of the lands, fix the boundaries of the district which the company may control, and appoint for the first

year the two executive officers of the company, who are called scavengers. The company may, by a two-thirds vote, annex any adjoining land, on the application of the owner, and admit him to the company. The company may direct the scavengers to remove any obstructions to the passage of water, to erect and keep in repair any dam, to open any new drain or ditch, to lay taxes to meet the liabilities of the company, and to do what ever else may be necessary to carry this law into effect. The scavengers, after the first year, are elected by the company, at its regular annual meetings. One is elected each year, and holds office for three years. They also elect, at the same time, a clerk, a treasurer, and a collector of taxes. The scavengers warn all meetings of the company, according to its rules, call special meetings, when requested by a certain number of members of the company, or when they think necessary, make out all rate bills, and procure from a justice a warrant for their collection, draw all orders on the treasurer, have the general management of the affairs of the company and determine, periodically, the quantity of land which each proprietor has within the limits of the company, and the proportion of benefit which he will receive from the improvements made by the company. All votes are counted, and taxes laid in proportion to the interest thus determined. They make a written report of their doings to the company, at each annual meeting, and receive such compensation as the company determines. When authorised by a two-thirds vote of the company, the scavengers make application to the superior court to alter the bounds of the company, or to annex other lands, and when any change in the bounds is made the scavengers readjust the proportional interests of each proprietor affected by such change.

The proprietors of low land under charge of commissioners of sewers may make application to a justice of the peace, who thereupon may issue a citation to all the proprietors to meet at some specified time and place within the town in which such lands or a portion of them lie; and at such meeting the proprietors may, by a two-thirds vote, computed according to the value of their interests, organize under any name they may select, with all the powers of drain companies organized by the Superior Court, and may appoint scavengers.*

There seems to be no appeal from the decision of the scavengers as to the quantity of land affected in any case, or as to the value of the benefits derived from the improvements by any proprietor.

Another Act† provides that on application of a majority of the proprietors of low lands, the Superior Court may appoint two commissioners of sewers, with power to ditch, drain, dam or drown any of those lands as they may think proper, employing workmen, and assess such proprietors to pay the charges, according to their quantity of land and the benefits they receive in such proportion as the commissioners deem just. They appoint a collector, and if any proprietor do not pay his share, the others may pay it, and hold his lands until the profit thereof shall in the judgment of the commissioners reimburse them. Any person aggrieved by the proceedings may appeal to the Superior Court. The proprietors do not hold meetings at stated times, but a meeting may be called at any time on application of three proprietors to a justice, who thereupon gives due warning. At such meeting the proprietors may, by a majority vote computed according to their interest in the value of such lands, appoint a clerk; vote to keep in repair any dams, drains or ditches made by the commissioners, and appoint a committee of not more than three to set out to each proprietor his part of such dam, drain or ditch computed according to the value of his interest in the land; and each proprietor, his heirs and assigns forever after shall keep open and repair such part. The proprietors may agree with any person to do the whole work, and in payment convey to him any rights of way or water, but such person must pay to any proprietor such damage as he sustains by reason of the construction and maintenance of the work. Or they may agree that such drains and ditches may be cleaned and such dams be repaired by the commissioners, who may do the work and assess and collect the expense thereof.

The proprietors may once in two years appoint two scavengers from their own number, who shall from time to time inspect all dams, drains and ditches, and warn any proprietor whose part is deficient. If such proprietor do not within five days make the repairs required, to the satisfaction of the scavengers, they may cause them to be done, and

* G. S., Sec. 2026—2036.

† G. S., Sec. 2037—2050.

he shall pay them double the expense. The proprietor may appeal to the selectmen to estimate the expense. The proprietors may direct their scavengers to do all the work necessary, and to collect the expense thereof as the commissioners may do. The scavengers may remove obstructions without the consent of the proprietor of the land.

The mode of proceeding by the creation of a drain company appears much more simple, and seems to be preferred.

When, in order to drain low lands, it is necessary to make a drain across adjacent lands, the owner of the lands, if he cannot make an agreement with the owner of the adjacent lands, may apply to the Superior Court, and the court thereupon may appoint three disinterested freeholders to determine the best mode of draining the low lands, and the benefit which would accrue to the adjacent proprietors; and the court may order the drainage to be done in accordance with the report. When low lands are drained by a ditch, or a current running from thence in a natural course through the land of an adjoining proprietor, "and such ditch or current becomes obstructed, the owner of the low lands may require the adjoining one" to remove such obstruction, and if after notice he neglects to do so, the owner of the low lands may call on the selectmen who, if they determine that the obstruction should be removed, and the proprietor do not remove it upon their order, may cause the work to be done, and the expenses and reasonable compensation for the services of the selectmen may be recovered from the parties in interest.

THE MIDDLE STATES.

The systems of the Southern and of the New England States began to blend in the Middle States at an early date; in some the county system is strongest, even to the present day, in others the towns exercise considerable power.

THE STATE OF NEW YORK.

In this State the unit of municipal government is the town: but the town has not powers as large as the New England town has, and the county government is differently organized, and has greater scope of power and authority.

The town can acquire and hold land for the use of the inhabitants, and make such orders for the disposition or use of its property as may be deemed conducive to the interests of its inhabitants; may make contracts, sue and be sued. Towns may be divided when the population reaches a certain number.

The town meetings are held on some day, between the 1st February and the 1st May, appointed by the county board of supervisors. It is the duty of the justices of the peace of the town to attend and preside. If they do not, the meeting may elect a chairman. The town clerk acts as clerk of the meeting. A supervisor, a town clerk, three assessors, a collector, one or two overseers of the poor, one or three commissioners of highways as the meeting determines, a town superintendent of common schools, not more than five constables, a town sealer of weights and measures, as many overseers of highways as there are road districts in the town, and as many pound masters as the meeting may determine, are elected. The commissioners of highways, when there are more than one, and the assessors hold office for three years, and one is elected each year. The assessors and highway commissioners are fence viewers. The supervisor, clerk and other more important officers must be elected by ballot; the less important by ballot, by ayes and noes, or by the rising or dividing of the electors as the meeting may choose.

Besides the power to elect the town officers and determine in some cases what their numbers shall be, the electors in the town meetings assembled have authority to direct the institution or defence of suits at law, and the raising of such sums for this purpose as they deem necessary; to take measures and give directions for the exercise of their corporate powers; "to provide for the destruction of noxious weeds; to establish pounds; to fix the compensation of fence viewers; to make prudential regulations for the improvement of lands owned by the town; to make regulations for ascertaining the sufficiency of fences, and determining the times at which animals may be permitted to run at large

on the highways; to impose penalties for the violation of any of these regulations, and to raise such money as may be necessary to give effect to any of them. The law allows the commissioner of highways to expend on his own authority a sum not exceeding \$250. When the town meeting thinks this insufficient, it may, on application of the commissioners, due notice of the intention to ask for an increase having been given, authorise the expenditure of a further sum not exceeding \$250. The meeting may also vote money for the purchase of a site and for the erection of a town hall, and may establish a fire brigade. But the money required for all these purposes, for the payment of the appointed compensation to the town officers, and for the contingent expenses of the town, is raised by the board of county supervisors, to whom all appropriations made by the town meeting and all claims against the town are submitted. The electors of each town, bound to support its own poor, have power at their annual town meeting to direct such sum to be raised for the support of the poor in such town for the ensuing year as they may deem necessary. The towns also provide for the support of their schools.

The supervisor receives and pays out all moneys raised in the town for defraying town charges, except the money raised for highways and bridges, schools and the poor, and on the Tuesday preceding the annual town meeting he accounts with the justices of the peace and town clerk for the disbursement of the moneys received by him. The accounts thus audited, it would seem, are submitted to the meeting.*

The supervisor attends the annual meeting of the county board of supervisors as a member thereof, and all special meetings, and he lays before the board all accounts against the town that have been presented to him, and a statement of "the moneys voted to be raised in his town." The supervisor, town clerk and justices of the peace constitute a board of town auditors, who audit and allow charges and claims payable by the town, and prepare a certificate specifying the names of the claimants, and the nature and amount of each claim to be laid before the county board by the supervisor.

The supervisor has duties to perform in connection with the elections, and special Acts confer special powers on the town meetings in some towns. But the town does not hold so important a place in the municipal system in this as in any of the New England States.

Counties.

On the other hand, the importance of the county government is much greater. The county, like the town, may acquire, hold and manage real estate, may dispose of such lands as are not required for county purposes, may hold such general property as is necessary, may make contracts, may sue and be sued; and, when there is a division of a county, there must be an equitable division of the property and liabilities also.

The county board is composed of the supervisors of the cities and towns of the county, who meet annually, and also hold such special meetings as may be necessary. They have power to make such orders as they deem expedient, respecting the county property; to examine, settle and allow all accounts against the county, and direct the raising of such sums as may be necessary to defray the same; to audit all accounts against the towns, and direct the raising of such sums as may be necessary to defray the same.

To cause to be levied, collected and paid to the treasurer of the county such sums of money as may be necessary to construct and repair bridges therein, to prescribe upon what plan and in what manner the moneys so raised shall be expended, and to apportion the tax so to be raised amongst the several towns and wards of the county. To cause to be levied, collected and paid to the treasurer of the county all such sums of money as they deem necessary for rebuilding or repairing the court house or gaol of the county, or the clerk's office, and to prescribe how the money shall be expended.

To appoint, upon proof that due notice has been served upon the highway commissioners of the towns interested, special commissioners to lay out public highways in

*In 1886 an Act was passed to authorise the several towns of the state to elect a board of two auditors. Chap. 488 of the Acts of 1888 provides that the auditors so elected shall have all the powers conferred by law upon boards of town auditors, and "shall examine and audit the accounts of the supervisor, and the supervisor shall account with them instead of with the justices of the peace and town clerk as now provided by law. All bills and claims must be presented to such auditors on the first day of their session" (the Tuesday preceding the annual town meeting).

those cases in which they are satisfied that the road applied for is important, and the authority conferred by law upon the commissioners of highways cannot or will not be exercised to accomplish the laying out of such road ; and to prescribe for the compensating of such special commissioners.

To cause to be levied, collected and paid . . . such sum of money, in addition to the sum now allowed by law, not exceeding \$500 in any one year, as a majority of the qualified voters of any town may, at any legal town meeting, have voted to be raised upon their town for constructing roads and bridges in such town.

They may, at their annual meeting, by a vote of two-thirds of all the members elected, divide or alter in its bounds any town, or erect a new town—application having been made and notice given to parties interested, as the law prescribes—and direct its organization ; may purchase any real estate required for the erection of court house, gaol, clerk's or surrogate office or other county building, or for the support of the poor ; determine the site of such buildings ; authorize the sale or leasing of any real estate belonging to the county ; cause court house, poor house and other necessary buildings to be erected, and prescribe the manner of erecting the same ; cause any sum of money required for such purposes, not exceeding \$5,000 in any one year, to be raised by tax upon the county ; borrow such money as may be required for such purposes, and provide for the payment of the same with interest by tax upon such county within ten years from the date of such loan in yearly instalments or otherwise ; authorize any town in the county, by a vote of the town, "to borrow any sum, not exceeding \$4,000 in one year, to build or repair any roads or bridges in such town, and prescribe the time of payment of the same, which shall be within ten years," and assess the principal and interest thereof upon such town ; abolish or revive the distinction between the town and county poor of such county ; fix the time and place of holding the annual meetings, and determine when each collector shall make return to the county treasurer, such time not to extend beyond the next 1st of March.

They are authorised to make such laws and regulations as they may deem necessary (and to provide for enforcing the same) for the destruction of wild beasts, and noxious weeds ; to prevent the destruction of sheep by dogs, to levy and enforce the collection of a tax upon dogs, to direct the application of such tax and to provide for the protection of game, and of shell and other fish, within the limits of their respective counties ; to require any officer whose salary is paid by the month, to make a report to them under oath, on any subject or matter connected with the duties of his office, and if such officer neglect or refuse to make such report, he shall be deemed guilty of a misdemeanor ; to change the location of the court and other county buildings, by a vote of two-thirds of all the members elected upon requisition of twelve or more freeholders, after due notice has been given ; to summon witnesses and require them to give evidence upon any matter within the jurisdiction of the board, and to administer oaths, and perform all duties which may be enjoined upon them by the laws of the state.

The supervisors elect their own chairman, appoint their own clerk and other officers, and are paid for each day occupied in the public service. They are also paid a fixed amount for travelling expenses. The amounts paid to the supervisors, the salaries of all county officials, the necessary expenditures on county buildings, all the cost of the administration of criminal justice, all charges for the support or relief of the poor, all sums paid as bounties for the destruction of noxious animals, the contingent expenses of the county, and every other sum directed by law to be raised for any county purpose, are deemed county charges, and the moneys necessary to defray them are levied upon the taxable property of the several towns in each county, by the county board. The power of the township government could scarcely be less, or the power of the county government greater, in any state in which township organization exists. The laws bearing on these subjects contain many special provisions respecting counties, in which the circumstances are regarded as exceptional, and numerous changes are made every year by special acts of the legislature, but the main features of the system remain unchanged. The people, in town meeting assembled, have scarcely any legislative power, and cannot by their own act raise money for any purpose in excess of what the law authorizes the commissioners of highways to expend.

They may declare that, in their opinion, other expenditures ought to be made, and name the amounts, but it remains for the county board to determine whether such expenditures shall be made, and to impose the taxation necessary to raise the amounts required. Even the payment of the salaries of the town officers, and of claims against the town, must be ordered by the county board. The township meeting, indeed, does little more than elect township officers, provide, when the county board so chooses, for the relief of the poor of the town, and express the opinion that some expenditures, to a limited amount, should be made for one or more of a few purposes.

Cities.

New York has no general law to regulate the incorporation of cities—the general law only providing that the mayors of cities shall be elected by the duly qualified electors, and making some other unimportant provisions. The consequence is that there is a great number of special charters, every one of which differs in some respect from all the rest, and that the acts of the legislature, amending those charters and the charters of villages, which in most cases, also, have special charters—are almost numberless. The Acts passed by the legislature of New York in the year 1888, fill a closely printed volume of 1,118 pages, and fully two-thirds of that space is occupied by amendments of municipal charters. Several of these amendments relate to matters of mere detail, such as the opening of streets, the opening or maintenance of parks, the construction or repair of bridges, the control and regulation of plumbing, the establishment or government of a police force, or a fire department, the mode of holding elections, the mode of assessing and collecting taxes, the powers of the collector of taxes, and how they should be used, the appointment of commissioners to direct and control the erection of a police station or some other public building, and other matters of a similar character, such as the municipal government, would have ample discretionary power to deal with under any well devised general system. Some of the statutes of 1888 direct the board of estimates of the city of New York, how to deal with claims of private persons against the city, and similar laws were passed respecting claims against other cities. The revised statutes of 1858 contains a number of general laws respecting the assessment and collection of taxes, but following these are a number of acts in which special provisions are made at considerable length, concerning the assessment and collection of taxes in the cities of New York, Albany, Troy, Rochester, Brooklyn, Auburn, Buffalo, Hudson, Oswego, Poughkeepsie and Syracuse. A great many of the provisions of these acts are precisely, or substantially, alike. But in some cases the assessors and collectors are elected, in others they are appointed by the council. In some cities the treasurer, or as he is sometimes called, the chamberlain, is also receiver of taxes. In some cities the collector does the whole work of collection, in others the treasurer enforces payment of the taxes which the collector has failed to collect. The framework of government is not exactly alike in any two of all those cities, nor are the powers of the municipal government precisely the same. The acts of 1858 have undergone many changes, but these have been rather in the direction of diversity than of uniformity. In 1888 nine acts were passed respecting the city of Buffalo, which are described as amendments of the charter, and at least twenty-one others which relate to matters properly municipal. Brooklyn got a new charter a few years ago, but in 1888 four acts were passed to amend the charter. The charter as a whole was recast and revised as to fifteen different sets of provisions, and some fifty other acts were passed relating to the affairs of the city. It should have been within the competence of the city government to deal with nearly all the matters dealt with in these acts of the legislature.

It would require much space to give even the merest outline of the form of government in all those cities. In most cases little is to be found deserving of special consideration. The most earnest efforts to remodel the municipal institutions of cities, so as to bring them into harmony with the conditions and requirements of the present day, and to put an end to the extravagance and corruption that prevailed under a system that

had become antiquated, have been made in New York and Brooklyn. Although these cities lie so close to one another, and their conditions are in so many respects alike, their municipal systems differ.

The City of New York.

The constitution of the State of New York declares* "It shall be the duty of the legislature to provide for the incorporation of cities and incorporated villages, and to restrict their powers of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessment and in contracting debt by such municipal corporations"; and † "sheriffs, clerks of counties, including the registrar and clerk of the city and county of New York, coroners and district attorneys, shall be chosen by the electors of the respective counties once in every three years, and as often as vacancies shall happen."

The city of New York was also the county of New York, and elected, besides the officers named in the constitution, twelve supervisors, who constituted the county board; their powers and duties were similar to those of other county boards in some respects. In 1874 an act was passed amalgamating the city council and county board; it provided that thenceforth they should be one body, corporate and politic, to be known as the mayor, aldermen, and commonalty of the city of New York. All the rights, property interests, claims and demands of the county, and of the board of supervisors, were thenceforth vested in the city corporation and the administration, and government of the city and county were performed by the one corporation aforesaid; it was necessary, however, that certain county officers continue to be elected as the constitution required. The powers of the city government were very limited at one time. It is surprising to find that it was thought necessary, so late as 1821, to pass an act of the legislature authorizing the mayor, aldermen, and commonalty, in common council convened, to make and establish such laws and ordinances as they may deem necessary for the purpose of preventing swine from running at large in any of the streets, lanes, alleys, and public places in the said city, and for impounding or forfeiting all swine which shall be found so running at large. An act passed in 1824 authorized the council to collect a fee of not less than \$5 nor more than \$20 from the owner of a hackney coach when he obtained the license which a previous act required that all hackmen should have. As late as 1851 an act was passed authorizing the city council to make certain regulations respecting the sale of firewood, and another respecting the keepers of junk shops. In 1873, and again in 1878, an act was passed respecting the making of contracts for lighting the streets with gas.

For many years the people of the city of New York complained that the state legislature, for party purposes, interfered too largely in the government of the city. Under pretence of protecting the citizens against the corruption and extravagance of the city government they placed the management of important departments and large expenditures in the hands of commissioners over whom the ratepayer had no control. The charter of 1873, and the amendments since made to it, restored to the people of the city the control of their own affairs, and thoroughly reorganized the city government. The board of assistant aldermen was abolished. The board of aldermen declared to be the common council was to be composed of twenty-two aldermen elected at the general state election every year; of these three were to be elected by each senatorial district, no voter voting for more than two; one was elected for a district made up of the twenty-third and twenty-fourth wards; the remaining six aldermen were to be elected by the city at large, but no voter was to vote for more than four of these aldermen. If a vacancy occurred at the board thus elected it was to be filled by election by said board by vote of a majority of all the members elected to said board. The board elect their own president. Every by-law is submitted to the mayor, and if within ten days he signifies his disapproval by message it does

*Art. 8, sec. 9.

†Art. 10, sec. 1.

not become law, unless passed over the veto by a vote of two-thirds of all the members elected. The charter further provides that in case any ordinance or resolution "involves the expenditure of money, the laying of an assessment, the lease of real estate or franchises, the votes of three-fourths of all the members elected shall become necessary to its passage." No money shall be expended for procession or funeral, or demonstration of any kind, unless by the votes of four-fifths of all the members elected. No additional allowance beyond the legal claim which shall exist under any contract with the corporation, or with any department or officer thereof, shall ever be passed by the common council except by the unanimous vote thereof." The amount to be expended in salaries by the board is limited. The charter also provides that "no resolution or ordinance providing for or contemplating the alienation, appropriation or leasing of any property of the city, the terminating of the lease of any property or franchise, or the making of any specific improvement, or the appropriation or expenditure of public moneys, or authorizing the incurring of any expense, or the taxing or assessing of property in the city, shall be passed or adopted until at least five days after the abstract of its provisions (prepared by the clerk) shall have been published. No such ordinance shall be approved by the mayor until "three days after such abstract shall have been so published after its passage;" and in all cases "the yeas and nays, upon the final passage of the resolution or ordinance, shall be published." Publicity is by many regarded as the most effectual check upon maladministration. Some of the checks provided in this charter would seem to be necessary, because the estimates are prepared, not by the council or a committee of the council, but by the board of estimates and apportionment, composed of the mayor, the comptroller, the president of the board of aldermen, and the president of the department of taxes and assessments. This board receive a statement from each department of the amount which the head of that department thinks necessary for the next year. The board, having prepared the estimates, submit them to the board of aldermen which may make objections or suggest rectifications, but these the board of estimates, if unanimous, may disregard. If the board overrule the objections or suggestions of the aldermen they are required to publish their reasons in the city record. Another check on improper expenditures seems to be afforded by those sections of the charter which provide that all payments, by or on behalf of the corporation, shall be made "through the proper disbursing officer of the department of finance on vouchers to be filed in said department by means of warrants drawn on the chamberlain by the comptroller, and countersigned by the mayor." The comptroller, in fact, pre-audits all accounts, and has full power to make his audit thorough. No contract for a public work is binding unless the comptroller shall indorse thereon his certificate that there remains unexpended and unapplied "a balance of the appropriation applicable thereto sufficient to pay the estimated expense of executing such contract as certified by the officer making the same." And all accounts kept in the other departments are subject to the inspection and revision of the officers of the comptroller's department. It would seem that these checks should be sufficient to prevent any gross misappropriation of the city's funds, or corrupt disposal of the property or franchises of the city, especially as the council now possesses no executive power. Nevertheless, grave scandals have proved that no legislative devices can of their own mere force prevent municipal abuses.

The legislative powers of the city council are of the usual character, but the numerous Acts of the legislature passed every year to provide for civic wants prove that the powers of the council are not so extensive as they should be. They may make by-laws to regulate traffic and sales on streets and public places, to regulate the use of sidewalks, prevent the extension of building fronts within the stoop lines, prevent encroachments and obstructions and require the commissioner of public works to remove the same; to regulate the use of the streets and sidewalks for signs, awnings and telegraph posts, and other purposes; to regulate the construction, repair and use of vaults, cisterns, areas and sewers; to regulate exhibitions and amusements, and the exhibiting of banners and flags; to prevent the throwing of ashes or filth on the streets; to license and regulate trackmen, cabmen, expressmen, boatmen, pawnbrokers, junk dealers, and others; to provide for the inspection and sealing of weights and measures, and for the inspection and weighing of hay and other articles; to regulate the opening of street surfaces, the laying of gas and water-mains, the building and repairing of sewers, the numbering of houses and lots, the clean-

ing of the streets and avenues.¹ They provide for and regulate street pavements, cross walks, curb stones, sidewalks and the grade of streets, and the grading, flagging, curbing, guttering and lighting of streets, roads, places and avenues. They make by-laws, also, as to the construction, repairs, care and use of markets, and as to the erection and repairs of public fountains. And the council is authorized to require the commissioner of public works to do any work or take any action proper for carrying into effect the powers of the common council. The council has not itself the power to do any of the things it may order to be done, or to enter into any contract for the doing of them. Indeed it cannot even order that any important improvement should be made until the commissioner of works recommends it. The mayor, comptroller, commissioner of public works, the president of the department of public works, and the president of the board of aldermen, form a board known as "the board of street opening and improvement,"* and "have" all the power and authority as to the laying out, opening, widening, straightening, extending, altering and closing streets or avenues, or parts of streets and avenues, in that part of the city south of 59th Street, now in any manner otherwise conferred and vested." And this board is authorized, after due notice to the board of aldermen and to the citizens, "to alter the map or plan of New York City," so as to lay out new streets in said part of the city, and to open, widen, extend, alter or close streets or avenues. The legislature has from time to time passed several Acts respecting the opening or altering of streets, and changing of grades in other parts of the city; and the Croton Aqueduct Board are authorized and required to provide a system of public sewers for the city, dividing it into sewer districts. The legislative powers of the council are very limited, and it has no executive power whatever, yet the charter further provides that the common council shall have no power to impose taxes or assessments, or borrow money, or contract debts, or loan the credit of the city, or take or make a lease of any real estate or franchise, save at a reasonable rent, and for a period not exceeding five years, unless especially authorized so to do by Act of the legislature.

The executive power is vested in the mayor and the heads of departments, who are all appointed now by the mayor, on his own authority. Previous to 1884, they were appointed by the board of aldermen, on nomination of the mayor. At one time several of the more important departments were controlled by commissioners appointed by the state government. The members of the board of aldermen are elected for one year. The mayor is elected for two years. The heads of departments, appointed by the mayor, hold office for longer terms—the comptroller, the chamberlain, the counsel to the corporation, and the commissioner of public works, for four years; the commissioners of police, of the fire department, of the health department, of public charities, and the commissioners of taxes and assessment, for six years. Each head of a department appoints all his subordinates, and determines the number required, but subject to the revision of the board of apportionment. No regular clerk or head of a bureau can be removed until he has been informed of the cause, and allowed an opportunity of making an explanation; and in every case of removal, a statement showing the reason therefor must be filed in the department.

We described briefly in our first report the organization of the different departments, and the powers and duties of each.

The mayor, in virtue of his right to appoint all the heads of departments, and as head of the board of estimates, two of whose three other members are appointed by the mayor, seems to be possessed of almost arbitrary power; but the charter places some checks on the exercise of that power. The mayor holds office but for two years; the comptroller, who sits with him on the board of estimates and apportionment, holds office for four years, and the president of the department of taxes and assessment for six years. Perhaps neither of those officers owes his appointment to the mayor of the time, or seeks or expects re-appointment at his hands.

Both these and all the other heads of departments, even if appointed by the mayor, are virtually independent of him, as although the head of the department may be removed by the mayor for cause, it must be for such cause as the governor of the state deems sufficient; and the mayor himself may be removed by the governor for cause, after having

*Sec. 105 of the charter.

been heard in reply to the charges made against him. The mayor has seldom been accused, or even suspected of complicity in jobbery or corrupt practices of the grosser kind, or even of conniving at the frauds by which the ratepayers have been swindled out of so many millions.

The City of Brooklyn.

The Act of 1888 which "revises and combines in a single Act all existing and special local laws, affecting interests in the city of Brooklyn," in other words the latest edition of the Brooklyn charter, occupies 162 pages of last year's statute book. In this the division of the city into wards, the framework of the government, the mode of election, the powers and duties of the mayor, the council and the heads of departments, and the manner in which several of those powers are to be exercised, and several of those duties to be discharged, are defined and prescribed at great length. It will be sufficient to describe the more important differences between the government of this city and of the city of New York.

The city is divided into twenty-six wards, and each ward is declared to be a town in the county of Kings, the city not being a county in itself, as New York is, but still requiring to be represented on the county board of supervisors, by which the work for the whole county is done, and county taxes are imposed. The city is divided into three aldermanic districts, each made up of the wards named in the act. Every two years at the annual state election four aldermen, from each aldermanic district, and "seven aldermen at large from the entire city," are elected. The nineteen aldermen so elected constitute the common council.

No provision is made for minority representation, as in the city of New York. The aldermen receive no compensation for their services, and no alderman can hold a public office of any kind, except that of notary public or commissioner of deeds. The council elect a president annually, and appoint a clerk, who is also the city clerk, and holds office for two years. A majority of the aldermen elected form a quorum. As in other cities, ordinances passed by the council may be vetoed by the mayor, and may be passed over the veto by a vote of two-thirds of all the aldermen elected. No debt or obligations can be created by the council except by ordinance or resolution specifying the amount and the object of the expenditure, and the council are required to cause a full statement of receipts and expenditures to be published at least twenty days before each annual election, and with it a statement in detail of the financial affairs of the city. The council is required to hold a meeting every Monday, and may hold special meetings.

The powers of the council are more extensive than those of the New York council. They order and direct the levy and collection of assessments, and manage the property and finances, subject to the powers and duties of the departments. They supervise the affairs of all the departments and officers, examine into charges preferred against any officer, clerk or agent, and for this purpose have access to all books and papers, and may administer oaths and examine witnesses. They regulate matters connected with the public wharves, and with parks, places and streets, regulate bathing, the burial of the dead, the extent of the fire districts, the inspection of weights and measures. They prohibit, or license and regulate, places of public amusement, regulate and license common carriers, hawkers, hackmen, and all the occupations usually subject to municipal regulations, fix the license to be paid for each car used by a street car company, establish, license, and regulate public and private markets, license or prohibit slaughter houses, and any noxious traffic or business; prohibit and abate nuisances and the keeping of disorderly houses, direct the making of drains, the filling up of lots and the construction of fences; may make, establish, amend (or repeal) such other ordinance and rules, police, health, excise, fire and building regulations, and such by-laws, not contrary to the law of the United States, or of the state, as they may deem necessary, to carry into effect the powers conferred on the Council by the laws of the state, and such as they may deem necessary and proper for the good government, order and protection of persons and property and for the preservation of the public health, and of the peace and prosperity of the city.

What power these latter provisions confer may be matter of doubt, but the council has, in several respects, more power than the council of its sister city. Brooklyn also has its board of estimate. It is composed of the commissioners of the sinking fund of the city, who are the mayor, comptroller and auditor, and of the supervisor at large and the treasurer of the county of Kings. The heads of all the departments of city and county, and the county supervisors send to this board estimates of what, in their opinion, is required in each department for all city and county purposes for the next ensuing year. The board of estimate fix the amounts to be raised for the county supervisors, and for the several departments, but the amount to be raised in the city must not exceed two cents in the dollar on the aggregate of the assessed value of the previous year. This does not include any amounts to be paid on account of interest or principal of the city's debts. The charter requires the board to include in their estimates sums not in excess of amounts stated, for making and repairing streets, sidewalks, drainage and other purposes. The estimates for city purposes must be submitted to the city council, which "may, by a majority of votes, reduce the several amounts fixed by the said board of estimate for the several city departments, officers and commissioners, including the board of education; but they shall not increase the said amounts." Over the county expenditures the city has no control, except what is obtained by having its representatives on the board of estimate and on the board of supervisors. The mayor, comptroller and common council are required to include in their estimates specified sums for the support of certain hospitals and other charities.

The council have power, also, to fix the salaries of the mayor, the comptroller, the auditor, the treasurer, the collector, the assessors, except the president, the attorney and counsel of the corporation, and of all other officers whose salaries are not fixed by law; but no salary payable to a head of a department, commissioner, assessor, or justice shall be changed during his term of office.

The council have power to establish markets, lay out parks, build bridges, and make other improvements, and to create loans and issue bonds therefor; but they are not permitted to issue such bonds until the proposition for creating such debt has been submitted to the electors of the city at a regular charter meeting, three months notice having been given, and has received "the affirmative vote of a majority of the voters at such election." If the majority vote in favor of creating the loan the common council, which shall be in office after such election, may, by a vote of a majority of all the members elected confirm the loan, but no bonds shall issue until the council have made specific provision for a sinking fund, to be raised by annual tax. After the taxes for any year have been levied, the council may make temporary loans in anticipation of the collection of the taxes.

Although the powers of the council, and especially its control over the taxation and expenditure are—at least relatively—so much greater than the New York council possess, they possess really no executive power. That is placed in the hands of the mayor and in the departments, whose heads the mayor appoints, except in so far as the powers of the comptroller and auditor, who in this city are like the mayor himself, elected by the people at large, may be regarded as executive.

The mayor, comptroller and auditor are elected for two years, on the day of general election, of every second year, but are voted for on a separate ballot. The mayor must be at least twenty-five years of age, and must have resided in the city at least five years. He is, *ex officio*, a supervisor and a justice of the peace. Each ward elects one supervisor, every alternate year, to hold office for two years, and the supervisors so elected with the mayor, represent the city on the county board. The salary of the mayor is fixed, by the charter, at \$6,000. Besides the powers ordinarily conferred on the mayors of cities, he has the power to suspend, for cause, any license, and its suspension remains in force unless removed by the council. The mayor, jointly with the comptroller, signs all warrants, bonds and other obligations of the corporation, under the conditions prescribed by the charter.

The administrative power, says the charter*, shall be vested in the mayor, the heads of departments, hereinafter named, and such other officers as shall, from time to

time, be created by law or appointed by this act, and "there shall be the following departments:" Finance, audit, treasury, collection, law, assesment, police and excise, arrears, health, fire, buildings, city works, parks, and public inspection.

The heads of all the departments, except finance and audit, are appointed by the mayor. Each head of department appoints, and removes at pleasure, a deputy who may perform all the duties of the head, in his absence, except that of making appointments. The head of a department may appoint and remove his clerks and other subordinates and fix their salaries, but after the expiration of thirty days from the time when a new officer has been appointed the head of a department he may remove any clerk or subordinate only on filing, in writing, with the city clerk the reasons for such removal, and these shall not be questioned in any other place. Foremen, inspectors and labourers employed by the departments may be removed at any time. Persons employed on the police force, or the force for extinguishing fires, cannot be removed unless convicted, after a public trial, of misconduct or neglect of duty, or adjudged incapable of performing their duty. City officers cannot hold a second public office or be interested in a contract, and none are allowed to receive perquisites or fees for their own use. The heads of departments are appointed for two years.

The mayor also appoints the assessors for five years, and the members of the board of education who hold office for three years.

The mayor cannot remove at will any officers he appoints. He may suspend any one or more of them provided "he forthwith serve in writing, upon the person suspended, the charges and specifications upon which suspension has been made; and upon a notice of not less than five nor more than ten days served upon the mayor by the person so suspended, the special term of the supreme court shall forthwith hear the proofs and arguments upon such charges and specifications and determine thereon if such suspended officer should be removed, and the judgment of such special term, that the officer be removed, affirmed by the general term of the supreme court, shall remove the person so suspended from office from the day of his suspension." If the decision of the special term, or of the general term, on appeal, be against removal the suspension shall thereupon cease. The tenure of office in this case seems more secure than in the city of New York, where the mayor may dismiss any officer, subject to the approval of the governor of the state.

The powers possessed by the comptroller in New York or Philadelphia are in Brooklyn divided between the comptroller and auditor. The more important officer is the comptroller, whose salary is \$6,000. He directs and manages the accounts subject to the ordinances of the common council, renders to the council, as often as required, a full and detailed statement of all receipts and disbursements, liabilities and resources, and such other information as may be necessary to a full understanding of the financial affairs of the city. He prepares the annual financial statement and manages all the financial affairs of the city. He may administer an oath to anyone required to render an account or make a return to him, or to furnish proof of his right to receive any sum of money from the city. He prescribes the form of keeping books and rendering accounts. No expenditures, debts or disbursements of any of the departments are paid except upon vouchers properly certified and audited. All accounts kept or rendered in any of the departments must be kept in the manner prescribed by the comptroller and be subject to the inspection and revision of the officers of his department. When city bonds are to be sold the comptroller is associated with the mayor in conducting the sale in the manner prescribed by law. Accounts of the receipts and expenditures of each of several funds named in the charter must be kept separately. The comptroller has the custody of all securities, books and papers belonging to the commissioners of the sinking fund of whom he is one.

It is the duty of the auditor, whose salary is \$3,500, to examine all bills presented against the city for payment. No claim against the city, including claims for local improvements, shall be paid unless he shall certify that the services have been rendered, or the materials furnished for which such bills may be presented, and that the charges are just and reasonable or according to contract. All moneys drawn from the treasury shall be upon vouchers for the expenditure thereof, examined and allowed by the auditor, and also approved by the comptroller in whose office they shall be filed. He may examine per-

sons presenting claims, or other witnesses respecting such claims, on oath; may require from the different officers all the information they possess, and inspect any books or documents in their offices. He makes a report, every week, to the council of all claims presented and of his decision upon each.

No money can be drawn out of the treasury, except in pursuance of an appropriation by the common council, or under the provisions of existing laws, and upon warrants signed by the mayor or acting mayor, and by the comptroller or his deputy, and countersigned by the city clerk, or in his absence by his assistant. "Redemption moneys may be drawn out of the treasury by checks signed by the registrar of arrears and countersigned by the comptroller."

The duties of the collector of taxes are little more than those of a receiver of taxes; the duties of the department of arrears, which enforces payment, are defined at great length. The officer known as attorney and counsel of the corporation, receives a salary of \$8,000, and pays all fees, fines, and penalties over to the treasurer. A president and ten assessors form the board of assessors. The assessors make out the assessment lists and rolls for taxes, and local improvements according to law, and revise and correct the rolls in the manner prescribed by the charter. The taxes levied and confirmed upon properties in Brooklyn by the supervisors of Kings County since 1861, which remain unpaid are declared good, valid, and effectual in law, and many provisions of a special character are made. Sixty-five sections covering sixteen pages, provide for the establishment, organization, and management of a police force, and define the powers and duties of the commissioners, officers, and policemen. All that relates to the organization of the health department, the fire department, the department of buildings, and the duties of officers, and men is set forth at considerable length. Provisions respecting the materials to be used in buildings, the character of the walls, the dimensions of timbers, and the manner in which they should be laid, the manner in which chimneys should be constructed, sewers and drains laid and connected with main sewers, ventilation provided for, and plumbing done are many, and deal minutely with all these subjects; the provisions respecting the construction of tenement houses, especially appear to have been carefully drawn. The supreme court, the court of Kings County, and the city court of Brooklyn, are authorised and required to give effect to the decision of the commissioners when applied to. One officer, the commissioner of city works, has control of all the work of making, improving, and cleaning streets with their crossings, gutters and sidewalks, prepares and carries out a general system of sewers, and controls the construction, extension and repairs of the waterworks. Everything done on any street, lane, or place, must be done by his authority, and he controls also the distribution of water, the collection of the water revenue, the erection and care of public buildings, the work of excavation, the filling of lots, and the licensing of vaults and cesspools. In his department there are six bureaux.

The common council may, on petition of a majority of the property owners, or of the owners of a majority of the property, or by a three-fourths vote of the board of aldermen and the consent of the mayor, without such petition, open, close, extend, widen, regulate, grade, pave, regrade and repave roads, streets, lanes and avenues, and cause public squares and parks to be opened, regulated, ornamented, and perfected, and cause the expense to be assessed, and be a lien on the property benefited in proportion to the amount of such benefit.

The mode of carrying out such improvements, and assessing benefits and injuries, is fully prescribed.

The duties of other departments and of the board of elections are also described at length. The city is divided into four police districts. A police magistrate is appointed for each district by the concurrent vote of the mayor, comptroller and auditor. The charter states where each of the four police courts must be held.

The charter provides that no railroad shall be constructed or operated upon or along any street or avenue unless a majority of the owners first petition the council therefor, and the council authorise the construction. Considerable exceptions, however, are made to this provision.

From all this it appears that in Brooklyn, as in New York, the people expected to get rid of many of the abuses in civic government, of which they had so much reason to complain, by placing all executive power in the hands of the mayor. The tendency in the other cities of the state seems to be in the same direction. An Act, to amend the charter of Syracuse, passed last year, gives to the mayor the power to veto any ordinance passed by the council, providing that the council may, by a two-thirds vote of the whole body, pass any ordinance over the mayor's veto; and provides that the supervisors from the several wards and the mayor shall constitute the board of auditors. In this city, whenever a street is repaired or remacadamized, graded or regraded, it must be paid for as a local improvement. One of the many Acts, to amend the charter of Buffalo, provides that thenceforth the term of the office of the mayor, the comptroller, the street commissioner, and the overseer of the poor, shall be two years, of other officers three, of others four, and of the assessors five years.

Some years ago a general Act, respecting the incorporation of villages, was passed, but nearly all the villages, it would seem, had special charters. Several of the Acts passed every year are Acts to amend village charters, enlarging the powers of the village council, or making some change in the mode of transacting municipal business.

The mode of assessment in the State of New York differs in some respect from that of many other states. Real and personal property are liable to taxation, but not income. Persons liable to taxation are not required, as in other states, to furnish the assessor with a "list" of their property. That the assessors are required themselves to make out. Those who think themselves aggrieved by the assessment, may apply for a reduction, and in such case the assessors may examine the applicants on oath. The real estate exemptions are of the usual character.

PENNSYLVANIA.

From its earliest days Pennsylvania was noted for its democratic tendencies. For some years after it became subject to English power, the Dutch court continued to manage its local affairs. Then the book of the Duke's laws became its code. The charter to Penn authorized him to divide the country and islands into towns, hundreds and counties. He was afterwards authorized to erect manors. The county, however, became "the element of primal importance," and all local affairs were managed by the Court of Quarter Sessions, the town becoming less important than it had previously been. The grand jury assisted the Court of Sessions, in estimating the county expenses, and making an assessment to defray them. In 1696 a law was made, creating a body of six assessors, to assist the sessions and grand jury. This body had authority to levy a rate of a penny in the pound, and a six-shillings poll tax. In 1724 a law was passed, providing for the election of three commissioners "to perform the functions," which previously belonged to the sessions, and to discharge other duties. This law divided the counties into districts. In 1779, the assessment board, consisting of three commissioners and six assessors, appointed two assistant assessors for each township, and the county clerk's office was created. In the colonial times, the management of roads and bridges was vested in the county. All public highways were laid out by order of the governor in council; minor roads by order of the Quarter Sessions, on report of viewers. Roads and bridges were constructed at the expense of the county. Afterwards highways were transferred to township supervision. In 1771, the justices of the peace appointed two overseers for each township, who were authorized to levy a highway rate. At the present day, the officers of the townships have charge of local roads and highways within their several townships, and have power to impose rates, within certain limits, for road purposes. The highest township authority is a board of supervisors, generally two or three in number, whose members hold office for three years. The township also elects an assessor, assistant assessor, a town clerk, treasurer, auditors and, when the poor are a town charge, overseers of the poor. The people do not assemble in town meetings to determine what improvements shall be made, what sums expended, or what rates levied. The supervisors may levy a rate not exceeding one cent on the dollar for road purposes. Any person may work out.

his share of this tax on the roads, at a specified rate of wages. The township authorities have little authority besides.

The chief authority for the management of all municipal affairs within the county, is the board of commissioners. The commissioners are three in number, elected for three years upon a minority vote system, each elector being allowed to vote for two candidates only. Several county officers, including auditors are elected also. The commissioners erect and maintain all county buildings; manage the prisons and other public institutions; have charge of the poor; construct bridges and other works of importance to the whole county; levy rates sufficient to cover all county expenditures, and through collectors appointed by themselves, collect all county and state taxes; they also audit the accounts of the townships. The commissioners may with the approval of the court of quarter sessions erect "a house for the destitute," for the accommodation of all poor persons who have gained the required legal settlement. This institution is managed by a board of directors. The quarter sessions is still the body to which application for opening a new highway must be made. A writer in the Johns Hopkins series, says of this state—"The control over matters pertaining to self government was not given to individual isolated communities as in New England; nor was it concentrated in the larger unit the county as in Virginia and Maryland. And yet the system of Pennsylvania was quite as democratic as the one, and as healthfully centralized as the other. The power to make by-laws for municipal management as well as the authority to legislate for the entire province was from the beginning in the hands of the people or their delegates. All public officers were either elected directly or chosen by those who were. Penn himself could not appoint even a justice of the peace. The words of the historian Bancroft are strictly true. But for the hereditary office of proprietary, Pennsylvania has been a representative democracy."

OHIO.

As we advance towards what was known, in the United States, a few years ago, as the great North-west, we find municipal institutions becoming in some important respects more like the system which Mr. Baldwin's great measure established in Upper Canada. The municipal system of Ohio is chiefly remarkable for its extraordinary diversity, and for the means employed in at least one of its counties and in its cities, especially its chief city Cincinnati, to place checks and restraints upon its municipal councils; but in this state we find the townships doing nearly all their municipal work, legislative as well as administrative, not through the people themselves in township meeting as in the New England states, but through an elective board whose members are called trustees.

Ohio Townships.

The municipal system of Ohio is in many respects peculiar. The county, rather than the town, or township as it is called, seems to be the municipal unit in the state, and the electors of the townships do little more at their annual elections than elect the three trustees who form the township board or council and the other town officers—a treasurer, an assessor, or, if the county board has divided a township into more than one electoral precinct, an assessor for each precinct and such number of constables and supervisors of roads as the trustees may direct. "An original surveyed township" in which there are portions of the lands set aside for school and other purposes, may, on application to the county commissioners and on its being proved that there are at least four electors in the district be organized for municipal purposes. The commissioners may order, an election of three trustees and a treasurer. Provision is made as to the mode in which these extraordinary elections are to be held. If the people fail to organize, or the electors refuse or neglect to act the county auditors may appoint trustees and town officers. It must be difficult in such cases to find room for choice. Townships, fully organized, are called civil townships, and are bodies politic and corporate, with the usual powers, privileges, and responsibilities. The law provides how townships may be divided, or may extend their boundaries, and how those changes that are found desirable under

various circumstances may be made. Provision is also made for the management of school and ministerial lands, and for the apportionment of the proceeds. All religious denominations that have any members in the township are entitled to participate in the proceeds of the ministerial lands in proportion to their numbers. The provisions respecting these matters and the holding of township elections occupy several pages of the statute book.

The township, unless when special questions are submitted to it, does little more at the annual meetings than elect trustees and officers. The trustees as representatives of the people do much of what is done by the people directly at their primary meetings in the New England towns. The trustees determine on or before the 15th day of May in each year, the amount of taxes necessary for all township purposes and certify the same to the county auditor. This amount, which does not include what is required for the support of schools, or on account of expenditures specially authorized, the trustees certify to the county auditors. It must not exceed one mill on the dollar of the taxable valuation of the property, when that does not exceed \$200,000; and as the valuation increases the maximum rate becomes smaller, so that when the valuation exceeds \$800,000 the maximum rate is one-fourth of one mill. The trustees may make an additional levy, not exceeding six-tenths of a mill to meet extraordinary expenses in the relief of the poor, and if more money is required for roads and bridges they may order an additional tax of one mill on the dollar, to be paid in labour, as the other road assessment may be paid, and one mill to be paid in cash. The money paid into the treasury for the construction and repair of roads and bridges the trustees cause to be appropriated to such works, letting them, after due notice, by contract to the lowest bidder; and when the work is performed the trustees draw an order in favour of the person by whom it has been done for the amount to which he is entitled. They provide scrapers and other implements for the supervisors of roads. When private persons desire to have a road laid out for their accommodation they apply to the trustees, who, after notice, appoint viewers to ascertain whether the road is required, and what damage would be done to any parties by opening it. If, after due notice, and the hearing of objections, should any be made, the trustees decide that the road should be opened the applicants may proceed with the work, after they have paid the damages awarded, and entered into a bond to keep the road in good condition. A chapter relating to township roads provides that "a township road which commences in a state turnpike, township, or county road, and is not less than thirty feet in width, and passes on and intersects another state turnpike, township, or county road, shall be opened and kept in repair by the supervisor in whose district it may be situated in whole or in part, and the costs of the view and survey of such road shall be paid out of the township' treasury."

The trustees are required to make repairs on the approaches to bridges, when the cost will not exceed fifty dollars, and they are required to set apart at their annual meeting, for the repair of all roads constructed and controlled by the county commissioners, such portion of the two day's labour and the labour in commutation of road tax, and of the money received on account of the township road tax, as they think just and fair. It is probable that they prefer to throw the greater part of the cost on the county and therefore appropriate a small part of the means at their disposal for road work to such purpose. In some counties the trustees supervise the expenditures on repairs of such roads. The trustees may change the direction or width of a township road. All township roads are declared public highways.

The trustees, if any persons interested petition for the construction of a ditch, drain or watercourse within the township, may, if, after having given due notice to those concerned, and having viewed the ground, and heard objections, they come to the conclusion that such ditch or drain is necessary and conducive to the public health, convenience or welfare, locate and establish the same, and determine all applications for damages. Appeal from their decisions may be made to the Probate Court, and in such case a jury of twelve is appointed to examine the ground, hear evidence, and render such verdict as seems to them just. If the jury decide that the drain should be made, or if there be no appeal, the trustees divide the work into suitable sections, not less in number than the owners of the land, and apportion the sections to the owners according

to the benefits they are to derive from the work. If any owner fail to do his share within the time appointed, the trustees let the work on his section at public competition, and, when the work is completed, report to the county auditor, who places the amount on the tax duplicate to be collected as other county taxes are collected. The trustees may also, on application, cause ditches to be enlarged, repaired or cleaned. For their services, in all such cases, the trustees are entitled to fees.

The trustees may accept land for a cemetery, and may expend a sum not exceeding \$2,000 a year in purchasing land, laying out a cemetery, and keeping it in order, if authorized by a majority of the votes given at a meeting convened to consider this question, and impose a tax in order to raise the amount required. They may also, if authorized in like manner, impose a tax not exceeding one-tenth of a mill for the support of a free library, and may procure a hearse, and cause a vault to be erected.

And when the voters desire to erect offices or an infirmary, or to construct a bridge or bridges, a vault or a cistern, or to purchase a site for any such improvement, or to purchase a fire engine, hose and apparatus, or to build or improve a turnpike, or to purchase one or more turnpike roads, and to make the same free, or to improve or repair any of the above-named objects; or to borrow money to cover a deficiency, or to pay any bond, award, claim or indebtedness, or to make any improvement of a local character not herein specified, the trustees may issue and sell their bonds for the amount required, provided, notice having been given for at least thirty days previously, the question of the issue of bonds, to a certain amount, for any of those purposes, be submitted to the electors at a general election and two-thirds of all who vote upon this question vote in favour of the issue.

The trustees audit the accounts of the town officers, and when necessary act as a board of health. Where a harbour master is required he is appointed and his duties are defined by the trustees.

The duties of the other officers are of the usual character. The work on each road section is superintended by the officer here called supervisor. All taxes for roads and bridges may, unless where there is express provision to the contrary, be paid in labour at the rate of \$1.50 per day, and statute labour may be commuted at the same rate.

The assessor, though elected at the township election is in all other respects a county officer. He prepares a list of all the property, real and personal, in his district, distinguishing what is taxable from what is exempt. Every person is bound to furnish a list of his property, real and personal, in detail. The assessor may examine those who furnish the lists, or any other witnesses on oath, and may employ many other means of determining the character and value of the property which should be taxed. He is also required to prepare, in detail, statistics respecting the agricultural condition of the township, its manufactories, mines, water crafts and various statements as to wages, investments, marriages and births; and every four years he is required to make an enumeration of all the male inhabitants above twenty-one years of age. All these and his assessment roll, when completed, he sends to the county officer. There is no township collection of taxes.

Counties.

Application for the erection of a new county is made to the general assembly in the manner prescribed. When a new county is established, the governor, by and with the advice and consent of the senate, appoints three commissioners to fix and establish the seat of justice for the county. It must be as near the centre of the county as possible, paying regard to the situation, extent of population, and quality of land, together with the convenience and interest of the inhabitants. The commissioners report their decision to the Court of Common Pleas of an adjoining county. If there is no town at the place selected the court appoints a director, who purchases not more than 700 acres of land at the place, at a price not exceeding that stipulated by the commissioners, lays it off into lots, streets and alleys, and sells the lots either at public auction or private sale, giving a title in fee simple to the purchaser; the price obtained is paid into the county treasury.

The affairs of the county are managed by a board of three commissioners, elected by the qualified electors thereof, who hold office for three years, one being elected every year. This board has the power to purchase, acquire, or appropriate and hold property for county purposes, to dispose of property belonging to the county that is not required, to sue and be sued, to plead and be impleaded, to employ counsel and pay them fees not exceeding \$250 in any one case. They hold four regular quarterly meetings every year at the county seat, and as many special sessions as may be necessary. The commissioner whose time first expires is president. Their proceedings must all be public, and, as far as possible, in conformity with the rules of parliamentary law. Their clerk keeps a record of all their proceedings. No proposition involving an expenditure of \$1,000 or upwards can be agreed to until twenty days after its introduction, unless by unanimous consent of those present, taken by yeas and nays. At the September sessions the commissioners examine and compare the accounts and vouchers of the county auditor and county treasurer, count the funds in the treasury, and direct the auditors to publish the exhibit of the receipts and expenditure of the past year.

A court house, jail, offices for the county officers and an infirmary are provided by the commissioners, when in their judgment such buildings are needed, and fire and burglar proof vaults, safes and other means of security in the office of the county treasurer. The commissioners keep the county buildings in repair, and they may authorize the auditor to contract for repairs of buildings or of furniture, not to cost more than fifty dollars. The state maintains lunatic asylums, and other charitable institutions. The commissioners may establish an infirmary and an orphan asylum, and these, when established, are entirely under their own control. They are required, also, to make arrangements for the maintenance or support of idiots and lunatics.

The towns are required to keep roads in repair, and to make certain repairs to bridges, and they may construct roads and bridges at their own expense. The work of construction and of repairs, when they involve a large expenditure, is, except in the case of private roads, undertaken almost exclusively by the county commissioners. The statute says* "the commissioners shall construct and keep in repair all necessary bridges over streams and public canals, on all state and county roads, free turnpikes, improved roads abandoned turnpikes and plank roads in common public use, except only in such cities and villages as by law have the right to demand and receive part of the bridge fund levied upon property within the same. They shall also construct and keep in repair approaches and ways to all bridges;" but when the cost of construction or repairs of approaches does not exceed fifty dollars, the work is done by the township trustees. When a bridge is to be built across a stream between two counties, the commissioners of the two agree how much of the cost each must contribute; for injuries done to a bridge or road, the commissioners may receive damages; when a bridge is to be rebuilt, the commissioners may change its site.

The powers of the commissioners, with respect to the construction of roads, are ample. The roads are of various classes. State roads are those which connect two or more states; they are constructed by the commissioners, and are not less than forty nor more than sixty feet in width. The powers and duties of the commissioners, and the manner in which they shall proceed in each case, to lay out the roads, appropriate (or condemn) the land required, determine the damages to be paid, and enter into contract for the work, are all fully set forth in the Revised Statutes, title 7. County roads are not less than thirty nor more than sixty feet wide. The statute describes fully the manner in which these and roads on county lines are to be laid out, established and constructed. The commissioners may construct turnpike roads leading from the county seat, or in any other part of the county. Of these roads which are as wide as state or county roads, at least twenty feet in width must be turnpiked with earth so as to drain freely to the sides, and not less than ten or more than sixteen feet in width must be raised with stone or gravel not more than twelve inches thick in the centre, or eight inches at the outside, well compacted together in such a manner as to secure a firm, even and substantial road. All the preliminary work of viewing, laying out the roads and acquiring or appropriating

the necessary land and materials for roads of this class is performed by three commissioners whom the county commissioners appoint for the purpose. The contracts are publicly let, by the county commissioners to the lowest bidder; but only the preliminary work can be done until the probable cost having been ascertained, the question as to the policy of constructing the proposed road by general tax is submitted to the electors of the county at an annual spring or fall election. If the electors approve of it, the commissioners may issue bonds for the amount required, and levy, in addition to other taxes, a tax of not more than four mills on the dollar of valuation on the grand duplicate of taxable property in the county. A majority of the land owners of any part of the county may petition the commissioners to have a free turnpike constructed. Thereupon the county commissioners may appoint a board of three commissioners, judicious freeholders of the county, to lay out, establish and construct such road, and in such case they may levy in addition to other taxes a tax not exceeding ten mills on the dollar on the taxable property within the bounds of the road for as many years as may be stated in the petition, not exceeding eight years; but no more than a sum sufficient to cover the actual cost of construction and maintenance shall be collected. The special commissioners may receive subscriptions and donations in real or personal property, or in money. They account to the county commissioners. "The taxes annually levied for road purposes by the trustees of a township, which may be collected within the bounds of any free turnpike road, including the two days labour authorized by law, must be applied in the construction and repair of such road, under the direction of the commissioners of the road, until the road is completed." The lands within one mile on each side of such free turnpike road may be included in the road district, if a majority of the owners sign the petition, and the county commissioners think such extension necessary; but when one such road crosses another, the lands which lie within a mile of both are assessed and taxed in proportion to the benefits derived from each of them. There are other provisions to meet special circumstances. When one mile of the road with the bridges and culverts thereon is finished, the road commissioners may require the county commissioners to take it off their hands, and thenceforth to keep that part of the road in repair, and so of every mile subsequently finished.

When two consecutive miles or more of any free turnpike is made in good order for travel or transportation, and the taxes applicable thereto and the two days' labor will not keep the same in repair, and three-fourths of the resident freeholders on the road, after giving notice, petition the county commissioners therefor, it shall be their duty to authorize the commissioners of the road to place a gate or gates on the road, and to charge such rate of toll as, when added to the common tax of the grand levy and the two days' work, will keep the road in good repair. And the road commissioners shall continue to manage such free turnpike road, and have the benefit of all laws regulating turnpike roads in the collection of tolls and other matters. The county commissioners may consolidate two or more free turnpikes, placing them under the management of one board. When a free turnpike is to be constructed in two counties, the county commissioners of each appoint road commissioners, who act together, forming one board. Road commissioners may issue bonds, payable at the county treasury in instalments, at intervals not exceeding the number of years set forth in the petition.

The county commissioners, whenever in their opinion the public interest will be subserved thereby, may surrender to any turnpike company any free turnpike or other road in the county, and direct that the taxes levied and collected for such road, and not otherwise appropriated by law, shall be paid over to such company, to be expended in constructing or repairing the road. The company must issue to the persons upon whose property taxes have been levied to construct or repair such road, certificates of stock for the amounts so paid, and upon these the parties receiving them shall be entitled to dividends as other stockholders may be. When three miles of the road have been finished, according to law the company may establish a toll-gate thereon, and for every additional five miles as finished, an additional gate may be erected, and the company may demand tolls thereat at rates not exceeding those allowed by law to other companies. The council of a village are authorized to borrow money, issue bonds, and levy a tax for the construction of free turnpike roads, terminating in or running through such village, if at some

regular election the majority of the electors approve of their doing so; they may in the same way aid in the construction of a turnpike road, on condition that it be extended to the village. The county commissioners may vacate a free turnpike, or any part thereof, which becomes useless, or remains unopened for five years after it has been established. The county commissioners may pay out of the county treasury any sum that remains due on account of the construction of the bridges on a free turnpike, which the road commissioners for want of means are unable to pay.

The roads constructed in that way are called "one mile assessment pikes." Chapter 8 of the same title makes provisions respecting what are called "two mile assessment pikes." This chapter provides that the county commissioners shall have power to lay out and construct any new county road, or to improve any state, county or township road, or any part thereof, or any free turnpike road, or any part thereof not completed, by straightening or altering the same, and by grading, paving, gravelling, macadamizing or planking the same, and by draining the same, and that they may vacate any such road or part thereof. They may improve any unfinished turnpike road other than such as charge and receive tolls, and when the grading has already been done, and the bridges and culverts already built, "one-half of the cost of such improvements shall be assessed upon the landowners along and adjacent to the line of the road, as provided in this chapter, and one half upon the grand duplicate of the county."

When it is proposed to complete or improve a road under the provisions of this chapter, five, at least, of the landowners interested petition the county commissioners and file a bond as security for the preliminary costs, which they must pay if the commissioners decide that the work should not be done. The commissioners appoint viewers and an engineer, who examine the road and the adjacent country, and report their opinion as to the desirability of the improvement. If they report in favor of it, and after hearing objections, for which opportunity must be given, the report is confirmed, the commissioners appoint a committee to value the lands to be taken, and estimate damages. After making allowance for these, they apportion the whole cost according to the benefit to be derived from the work, taking into account previous assessments made upon the properties for the construction of the road, and any benefit that will accrue to the land from the drainage resulting from the improvement. Objections may be made to their report, and another committee may be appointed to reconsider all these matters. The report of the second committee is final. No land shall be assessed that does not lie within two miles of the proposed improvement in some direction. Land previously assessed shall not be assessed for any extension of a road, unless the prior assessment be not deemed proportioned to the whole benefit resulting to such land. When a road to be improved under and by virtue of this chapter ends in a city or village, the corporate authorities thereof may, upon recommendation of the county commissioners, contribute an amount equal to one-fifth of the cost of the road, paying in bonds issued with the same conditions as bonds of the commissioners of free turnpike roads; but the entire tax imposed for such purpose must not exceed five mills on the dollar valuation in any one year. When such a road is continued to a city in an adjoining county, such a city may aid in the construction of the road to an extent not exceeding one-fifth of the cost. The commissioners appoint an engineer to make contracts by public outcry, or sealed bids, under the supervision of the commissioners, and to superintend the performance and completion of the work. The Judge of the Probate Court may appoint appraisers to value such materials as are taken for the work from the adjacent lands. The owners may appeal from their decisions to the Court of Common Pleas. The assessment may at any time be increased or diminished, as the circumstances require, and the county commissioners may at any time suspend operations, making due compensation to the contractors, if a contract has been entered into. The commissioners may issue bonds for such amount as the improvements will cost, payable in instalments or at intervals not exceeding in all the period of five years. Any road or part of a road constructed by a company may be surrendered to the county commissioners "without consideration," and the county commissioners, when they think that the public interest so requires, may purchase and make free any turnpike road, or part of a road, within the county. When a company proposes to sell, and the commissioners are willing to buy, the value is

determined by appraisement, and in such cases the appraised value of the bridges is paid out of the bridge fund of the county.

Another chapter makes provision for the repair of improved roads. In three counties each township is constituted a road district under the care of a superintendent, who is elected at the annual town meeting, and who has full control of all the improved roads, keeps them in good condition and has all the powers of a supervisor of roads. He may under direction of the commissioners contract for material for repairs, and in case of damage by floods may contract for repairs by job or day work; may certify to the county auditors what has been done and the cost, and upon order of the commissioners he may issue a warrant for such amount as is necessary in addition to the two days labour and the labour in commutation of taxes which the trustees are required to furnish for the repairs of such roads.

In thirty-two other counties the township trustees are required to take charge of the roads, and keep them in proper repair. The trustees may appoint supervisors. The trustees "set off" districts and persons who will perform in each district their two days' labour, and labour in commutation of taxes. They also set off from their common road fund such an amount as seems equitable to be applied to the care and improvement of these roads; and they may allow the use of the plows, scrapers, and other implements which they have provided for the use of the township. If the labour and money prove insufficient, the commissioners determine and levy an additional per centum of extra road tax to be borne by the taxable property of the county, not exceeding two mills on the dollar in any year.

In all other counties the county commissioners are themselves a board of turnpike directors; they divide the county into three districts, and each takes charge of one district; they hold a meeting of the board at least once a quarter at the county seat; they may appoint superintendents; they are required to keep a record of their proceedings, which is open to the public, and to publish in the newspapers such rules and regulations of labour and of travel on such roads as they have adopted, and, once a year, a detailed statement of receipts and expenditures; they may contract for labour and material, and may take material along the lines of road, paying such price as may be agreed upon or awarded; they inform the auditor of the amount required for repairs, and he levies the same upon all the taxable property, but the levy must not exceed three-twentieths of one mill for every ten miles of turnpike completed in the county. The proceeds form a fund from which payments are made upon the order of the auditor, issued upon the certificate of the board of turnpike directors in these counties. The township trustees, at their annual meeting in March, designate and set off such portion of the two days' labour as they deem just and equitable to be performed under the control of the board of directors or their superintendents. The commissioners are required to keep in repair such portions of improved roads as, after their completion, are included within the limits of a city or village "to points therein where the sidewalks have been curbed and guttered, and no further."

The commissioners may appropriate as county roads any turnpike or plank road, or part thereof, that remains unfinished for five years. Any such road that remains out of repair for six months may, on application of persons owning land in the neighbourhood, be declared "abandoned" by the court of probate after notice and hearing of all interested, and thereupon the commissioners may declare it a county road. The commissioners may cause damages done to roads by floods to be repaired, and may build embankments when required, levy a tax to cover the expenditure, and borrow in anticipation of such tax. What is called the national road is, for that portion within the county, in charge of the commissioners, and they may erect gates and collect tolls on it. The unfinished portion of it may be treated as a free turnpike.

When two-thirds of the resident freehold taxpayers on any line of state, county, or turnpike road, file a petition with the auditor for an extra tax for the purpose of constructing, repairing, or improving such road, he shall levy a tax for such amount as may be required, not exceeding in any one year six mills on the dollar, on the lands on each side not exceeding a mile in width, such tax to continue three years and no longer, unless the petition be renewed. Such tax shall be levied on the lands along the line of any such road in any township only when petitioned for by three-fourths of the resident freeholders.

All the taxes in such cases may be discharged by labour on the proper road under the direction of the supervisors.

Another chapter of the same title prescribes more carefully the powers and duties of the commissioners with regard to bridges. They are to construct and keep in repair all bridges over public canals, except on roads owned by incorporated companies, all necessary bridges in cities and villages that have not a right to demand and receive a portion of the bridge fund levied on the property within such corporations, and all bridges on state and county roads, free turnpikes, improved roads, and transferred and abandoned turnpikes and plank roads which are of general utility, and to make and keep in repair, when the cost exceeds \$50, the approaches to such bridges. They may arrange with railroad companies for the construction, maintenance, and use of wagon tracks in connection with railroad bridges; may purchase toll bridges and issue bonds for the amount. Authority to levy taxes for all these purposes is given.

The powers of the commissioners with respect to the construction, repair and use of roads and bridges are very great. Whether any advantage is derived from having so many different kinds and classes of roads, and so many modes of doing the work of construction and repairs, we have not been able to learn.

When railroads wish to establish toll gates the consent of the county commissioners is required. They may offer rewards for the apprehension of persons accused of felony, and especially of horse thieves, and it is their duty to destroy the implements of those accused of making counterfeit coin. They are required when that has not already been done, to cause a true meridian to be established near the county town, to employ a person to ascertain once a month the declination of the magnetic forces, and the true meridian, and to adjust to the true meridian any compass or other instrument to measure angles. They may cause the corners of townships to be established.

The powers of the county commissioners, and especially their taxing powers, are very extensive. If they refuse or neglect to levy such tax as may be necessary to pay the interest, and the stipulated portion of the principal of the debts contracted for the purchase of land and the erection of county buildings, the auditor is required to levy such tax and place it upon the tax list.

Drainage.

The county commissioners may also "cause to be located and constructed, straightened widened, altered, or deepened, any ditch, drain, or watercourse when the same is necessary to drain any lots, lands, public or corporate roads, or railroad, and will be conducive to the public health, convenience, or welfare." Chapter 1 of title 6 prescribes in detail the manner of proceeding. Parties interested file a petition with the county auditor, who, if the proper bond to secure payment of the preliminary expenses be filed, delivers a copy of the petition to the county commissioners. They examine the line of the proposed improvement and the adjacent premises, and if they find for the improvement, "direct an engineer to make a survey, and prepare a plan of the works required, an estimate of the cost, a schedule of the lands and roads to be benefited, an apportionment of the number of lineal feet and cubic yards of the work to each lot, tract of land, road, or railroad, according to the benefits which will result to each, an estimate of the costs of location and construction to each, and a specification of the manner in which the improvement should be made. When these papers are filed with the auditor he causes all interested to be notified. The commissioners meet at the auditor's office on the day named by him to examine the reports, plans, estimates, and apportionment of the engineer, and if they are not satisfied they may themselves go over the premises, and by actual view, apportion the cost of location and construction. On a day, of which notice has been given, they hear and determine applications for damages. Appeal from any or all of their decisions may be made to the probate court. When it is decided that the improvement shall be carried out the commissioners offer the work to public competition in sections not less than the number of lineal feet apportioned to each lot or separate tract of land, public or corporate road, or railroad. The work is done under the supervision of the engineer appointed by the commissioners. The commissioners may issue county bonds for the amount of the cost of

the work, and determine at what time and in what number of assessments they will require the same to be paid by the persons or corporations interested, and under the assessment made by them to be placed on the "duplicate" against the lots, lands, or roads so assessed. A township or a corporation may apply to the commissioner to have a drain constructed. In like manner a ditch may be enlarged, repaired, or cleaned out.

County Officers.

The county auditor, recorder, surveyor and clerk of the court of common pleas, are elected by the electors of the county for three years; the treasurer, sheriff, coroner and prosecuting attorney for two years.

The duties of the auditor are many and various. He is *ex-officio* clerk of the board of county commissioners. To him are sent all the assessment rolls, and when these have been equalized by state and county boards, and statements have been sent to the auditor of all the sums to be levied for state, county, township, hamlet, village, city, school and other purposes, he apportions the amounts of the general taxes amongst all those assessed and the amounts of special levies according to the special assessments. He charges those whose names were omitted in the assessment lists, and he may make reductions where he finds the assessment excessive. He gives to the treasurer a copy of the tax list so prepared, and charges him with the whole amount. He keeps an account current with the treasurer, shewing all money paid into the treasury and paid out. The auditor certifies all moneys paid in, except those paid as taxes on the duplicate, and twice a year has an accounting with the treasurer in which he compares all amounts credited as tax payments with the duplicate. He issues warrants for all moneys payable out of the treasury to city, village, hamlet or township, and, on proper vouchers being presented, for all sums payable for county purposes, which have been allowed by the commissioners, or which are fixed by law. He has a right to examine the registry of deeds of his county free of charge, and to discharge prisoners confined for non-payment of fine or assessment due the county. He must furnish to the state auditor a complete list of all the taxable property in the county made out in the prescribed manner, abstracts of his half yearly settlements with the treasurer, a quadrennial return of the deaf and dumb, blind and idiotic, and a summary of the statement of farm animals prepared by the assessors. He must keep an account with each township, city, village and hamlet. He has duties of an administrative character to discharge, when application is made for the construction of a new county, free turnpike, or other road, or for the construction, repairs, or cleaning out of drains. To him in some cases the petitions are sent, and by him the machinery is put in motion. In his office must the plans and profiles, the decisions of the commissioners or of the court of probate, and the assessment papers be filed in all such cases, and by him notices of meetings are published, and notification is made to the owners of property. In certain cases he is authorised to levy such taxes as are necessary in order to meet the obligations of the county. He is also sealer of weights *ex-officio*. The auditor is paid for his services to the public by a salary, which varies according to the population of the county from \$800 to \$3,300. He receives fees for the services of himself or his assistants as sealer of weights, for the issue of various certificates, and for his work under the improved road law, the free turnpike law, and the drainage laws.

The county treasurer is the receiver of taxes also, and has the usual powers to enforce payment. He pays on warrant of the state auditor, all sums collected by him for the state, and on the warrant of the county auditor, all sums due to cities, villages, hamlets and townships, and to all whose claims against the county, or against any particular fund have been duly allowed. At their September session, the county commissioners examine and compare the accounts and vouchers of the county auditor and treasurer, count the funds in the treasury, and direct the auditor to publish an exhibit of the receipts and expenditures of the past year.

The prosecuting attorney, clerk of the court and sheriff, pay into the treasury all moneys received as fees and fines, and their accounts are audited by the commissioners, who compare their returns with the accounts of the treasurer. The auditor and treasurer every half year make out and publish an account of the money in each fund, and of the

bonds, securities and assets. On application of twenty tax payers, the court of Common Pleas is required to appoint persons to examine the books and papers of the offices of the auditor and treasurer and report under oath the result of this examination. If they report a breach of the bond of either officer, it is the duty of the prosecuting attorney to commence forthwith an action on such bond.

The recorder keeps a register of deeds and mortgages and a record of plots or maps of town lots. The duties of the surveyor are chiefly to prevent disputes as to boundary lines.

Board of Control.

In at least one of the counties there exists a body peculiar, we believe, to this state known as a board of control. The law provides that such a body consisting of five members shall be elected in each county containing a city of the first class, having a population exceeding 180,000. The members hold office for three years. A solicitor of this board is also elected at the regular election. He holds office for two years and is solicitor for the board of commissioners also. The board of control organize on the second Monday of April, elect one of their own number president, and appoint a clerk and assistant clerks if necessary. All their proceedings must be public, and the yeas and nays must be taken on every question involving an expenditure of money. This board have final action and jurisdiction in all matters involving the expenditure of money, or the awarding of contracts, or the assessing or levying of taxes. No contract or release made, or liability incurred, or appropriation, or allowance, or taxes levied or assessed by the board of county commissioners, shall be valid and binding, unless a majority of all the members of the board of control present vote therefor, and no appropriation exceeding \$100 can be made without their approval.

The board of control meet the board of commissioners in joint session once a quarter, and at such other times as may be necessary. At such meetings five members of both boards form a quorum, but a majority of each board is necessary to decide all questions. At these meetings regulations are made prescribing how accounts against the county are to be made out, examined, certified and audited, before being allowed and approved; how monthly pay rolls are to be made out, and upon what evidence the auditor may draw his warrants for the same.

The authorities of the county institutions and the heads of departments, send to the auditor their estimates of the amounts required for the different services for each month of the ensuing year. These estimates the auditor and the two boards revise; the auditor furnishes to both boards statements, shewing the balance to the credit of the different funds; the monthly expenditure out of each fund during the previous year; the annual expenditures for five years; the average monthly and annual expenditures; an approximate and detailed estimate of the money needed to pay all lawful expenses of the county for the twenty months following, not to exceed \$50,000 per month, and his estimate of the total percentage necessary to be levied that year. He is required to avoid alike surpluses and deficits. Ten days after, the board of commissioners meet and determine the total tax levy they deem necessary for the year, not to be higher than the estimate of the auditor, and at a subsequent meeting they prepare detailed and specific appropriations for all the county services, the total not to exceed \$50,000 a month. They send their estimates of taxes and appropriations to the board of control for approval, amendment or rejection. The board of commissioners is also bound to present to the board of control at each of its meetings, a true and accurate statement of all matters that have come before it, which involve an expenditure of money, or the awarding of contracts, or the levying of taxes, and all bids on contracts, all plans and specifications, and every paper that contains any information respecting such matters. The county solicitor must be present at all the meetings of both boards to give advice, and he is entitled to protest against any action taken, and to require that his protest be entered on the minutes. Any county officer may consult the solicitor as to his official duties and obtain his opinion in writing.

Cities, Villages and Hamlets.

In Ohio only cities, villages and hamlets are designated municipal corporations in the statutes.

Cities are divided into two classes. Cities of the first class are by the statute divided into three grades, and it is provided, that "cities of the second class which hereafter become cities of the first class, constitute a fourth grade of the first class." Cities of the second class are divided into four grades; existing corporations organized as cities of the first class were to remain such. The class and grade were determined by the number of the population. Those cities which, according to the next preceding federal census, had more than two hundred thousand inhabitants, constitute the first grade of the first class; Cincinnati is the only city of that class and grade. Those which had more than 90,000, and less than 200,000, constitute the second grade. Cleveland is the only city of that grade. Those which had more than 31,500, and less than 90,000 inhabitants, constitute the third grade. Toledo is the only city of that grade.

In the second class are embraced all the cities whose population is more than 5,000, and less than 31,500. Columbus whose population exceeds 30,500, is the only city of the first grade, and Dayton the only city of the second grade. Sandusky, Springfield, Hamilton, Portsmouth, Louisville and Akron have each more than 10,000, and less than 20,000, and belong to the third grade. The cities of less than 10,000 inhabitants, and more than five, belong to the fourth grade.

This system of classification seems to have been adopted in order to evade article 13, sec. 1, of the state constitution, which enacts, that "the general assembly shall pass no special act conferring corporate powers."

"Municipal corporations" which have more than 3,000, and less than 5,000, inhabitants, are villages of the first class. Those which have more than 200, but less than 3,000, are villages of the second class. The act further provides, that "existing corporations organized as incorporated villages for special purposes, shall be hamlets." A hamlet could not after the passing of this general Act be organized until it had fifty inhabitants.

The statute provides for the organization of hamlets and villages, and for the advancement of hamlets to the rank of villages, of villages to the rank of cities, and of cities from one grade or class to another, when the population has become as large as the law requires, and the inhabitants desire such advance; and also for the annexation of territory, and for the annexation of one municipal corporation to another. When the corporate limits of a city or village become identical with those of a township, the township officers are abolished, and their powers and duties vest in and are performed by the council. The council of a city or village may change the boundaries of the wards by ordinance when circumstances render such change necessary to maintain an equality of population in the wards. Cities of the second class may be reduced to the rank of villages, and villages to the rank of hamlets when the inhabitants so desire, and hamlets may surrender their corporate rights.

The council of a hamlet consists of three trustees, one of whom is elected every year for three years. Their powers are extensive, but they cannot open new streets or rate land for the purpose, unless they all concur, and they can make no order for the improvement or repairs of a street or ward, except on petition of two-thirds of the owners of lots or land through or by which it passes.

In cities of the first and third grades of the first-class—that is in Cincinnati and Toledo—the legislative power is vested in a board of aldermen and a board of councilmen, which together form the common council. In cities of the first grade of the first-class (Cincinnati) the board of aldermen consists of thirty members, elected by five districts, to serve for four years. In cities of the third grade of the first-class (Toledo) the board of aldermen consists of one alderman from each ward elected for the term of two years. In both cities the board of councilmen consists of two councillors from each ward, elected for the term of two years. The mode of electing aldermen in those cities was different before the passing of this Act. When the board organize after an election each elects a president and vice-president. Each board meets in the council chamber at least twice every month, but both boards cannot meet in separate session on the same day. Every legislative act

of the council must be by ordinance, resolution or order passed by both boards. Any ordinance or order involving the expenditure of money, or approving any contract, granting any franchise or creating any right cannot after passage by one board be taken up by the other until at least one week has elapsed. The votes of a majority of all the members elected to each board is necessary to pass any ordinance or resolution involving any expenditure of money; and every ordinance or resolution in which such expenditure is involved, or the approval of a contract for the payment of money, or for the granting a franchise or creating a right, or for the purchase, lease, sale or transfer of property except such as levy special taxes for the improvement of streets shall, before it take effect, be duly presented to the mayor for approval. If the mayor approves of the ordinance, resolution or contract he signs it. If not, he returns it to the board in which it originated, within two days, stating in writing whether he disapproves of it wholly or in part and what his objections are. The ordinance or the portions of it objected to can thereafter have no effect unless passed over the veto by a vote of two-thirds of all the members elected to each board, in separate session.

The city clerk is elected by both branches of the council and is clerk of each board. When the election or confirmation of the appointment of officers is made the duty of the council, the two boards meet in joint session. Officers appointed by the council may be removed at the pleasure of the council by a vote of the majority. An officer elected by the people may be removed by a concurrent vote of two-thirds of all the members elected to the council, if a charge against such officer has been made in writing, and an opportunity has been given to him of making a defence.

In cities other than those of the first and third grades of the first-class (Cincinnati and Toledo), and in villages, the legislative authority is vested in a council consisting of two members from each ward. One member to serve for two years is elected in each ward every year. In villages not divided into wards the council consists of six members, of whom three are elected every year. The councils organize in the way prescribed, and elect a president, a clerk and other officers. These councils are only required to hold one meeting each week, but they may hold special meetings called on due notice by the mayor or any three members of the council.

The mayor, city auditor, engineer and solicitor have seats in the council and board of aldermen, and are entitled to take part in the proceedings and deliberations on all questions relating to their respective departments, subject to such rules as the council may prescribe, and they may be compelled to attend the meeting of either board but they have not a right to vote.

The legislative powers of the councils in cities and villages are of the usual character and are set forth in forty sections, which seem to confer all the powers ordinarily exercised by such bodies anywhere. All they do must be done by by-laws, ordinances or resolutions, which must be fully and distinctly read on three different days in each branch of the council unless three-fourths of the members elected dispense with this rule. No by-law or ordinance shall contain more than one subject, and this must be clearly expressed in its title, and no by-law shall be revived or amended unless the new by-law or ordinance contain the entire by-law or ordinance to be revived or amended and the by-law so amended be repealed. The power to make a contract, agreement or obligation to bind the corporation or to make an appropriation cannot be delegated.

In cities of the first grade of the first-class the officers are a mayor, solicitor, treasurer, police judge, prosecuting attorney of the police court and a clerk of that court, chosen by the electors, a clerk elected by the common council and a clerk elected by the board of public affairs. In cities of the second and third grades of the first-class the same officers are chosen in the same manner except that the auditor is elected by the council, the street commissioner is chosen by the electors and the civil engineer is elected by the council. In cities of the third grade of the first-class a fire engineer is appointed by the mayor with the consent of the council. The officers of a city of the second class are a mayor, a marshal, solicitor, city commissioner who is superintendent of streets, and a treasurer, chosen by the electors, and a clerk chosen by the council. The council may in cities of this class create by ordinance the offices of auditor, civil engineer, sealer of weights and measures, fire engineer and superintendent of markets.

In cities of the third grade of the first class, and in cities of the second-class embracing the county seat, there is no election of city treasurer, but the county treasurer acts as the city treasurer at a rate of compensation fixed by the county commissioners, and not exceeding \$500 a year; and the council of any city of the first-class may provide by ordinance for the appointment of a sealer of weights and measures.

The officers of a village are a mayor, clerk, sealer of weights and measures, treasurer and marshal, and the council may create the offices of solicitor and street commissioner. All are elected by the electors of the village. In hamlets the trustees appoint a clerk who acts also as treasurer, a marshal who acts as supervisor, and such other police officers as may be necessary, and prescribe the duties and compensations of them all. The president of the board of trustees has the same powers and duties as are prescribed for mayors of villages.

In cities the councils may provide for the appointment or election of such other officers as they find necessary.

Officers who are elected serve two years except the clerk of the police court who serves three years, and in cities of the first-class the auditor, and in cities of the second and third grades of the first-class the civil engineer who serve three years and in cities of the second grade of the first-class the solicitor who serves four years. All officers who are appointed serve one year "except as otherwise provided." Officers who are not elected are appointed by the mayor, with the advice and consent of the council, the concurrence of a majority of the members elected being necessary. But the auditor, city clerk, solicitor, treasurer, and clerk of the police court in cities of the first-class, and civil engineers in cities of the second and third grades of the first-class appoint their assistants subject to the confirmation of the council. Officers may receive such fees in compensation for their services as the council may prescribe. In municipal corporations divided into wards, each ward elects an assessor. When a township has become merged in a municipal corporation for other purposes it still retains a separate existence for the election of justices of the peace and constables.

The mayor, president of the council, and solicitor of the corporation, meet once a month as a board of revision, to review the proceedings of the council and of all the departments of the corporation, and to report to the council if any department has transcended its powers or any officer has neglected his duty, and whether any retrenchment or any improvement in any of the departments could be made.

Any elector may charge any member of either board of council or any officer of the corporation with misfeasance or malfeasance before the probate court. The person accused is tried before a jury if either party so demand. If the charges are sustained, the judge makes an order removing the accused from office. All officers give bonds for the proper discharge of their duties.

The mayor performs all the duties prescribed by ordinance, sees that all the ordinances are enforced and that all the officers of the corporation do their duty. He may suspend any officer appointed by him, and also the lieutenant of police, reporting the cause of suspension to the council at its next meeting. He may protest against excessive expenditures. He has the jurisdiction and powers of a justice of the peace in civil cases, and may receive fees for his own use. His chief power is that of vetoing ordinances and resolutions of the council.

The clerk, in addition to the ordinary duties of such an officer, prepares a yearly account of the receipts and expenditure, and causes a condensed statement, approved by the mayor, to be posted at the places of holding elections for officers of the corporation, and in some newspaper at least five days prior to the day of election. He must furnish a detailed account at any time when the council so requires. He must make an annual return to the state auditor of the aggregate expenses of the corporation under several heads, and when required, he performs the duties of auditor where there is no city auditor.

The auditor, when such an officer is appointed, keeps an account of receipts and expenditures and prepares the annual statement. He is little more than a keeper of accounts. The treasurer receives the money collected as taxes by the county treasurer

and all moneys accruing to the corporation, keeps an account of all receipts and disbursements and accounts to the council once a quarter and whenever the council requires. The solicitor, street commissioner and other officers perform the duties prescribed and such other duties, not incompatible with the nature of their office, as the council may by ordinance require. In cities of the first class, there is a court held by the police judge, in which a prosecuting attorney conducts all cases. In other cities and in villages the mayor, and in hamlets, a justice of the peace of the township or the president of the trustees, acts as police judge; the powers of the judge, and the modes of procedure are fully defined and prescribed in each case. The powers and duties of the marshal or chief of police are also defined.

In cities of the first grade of the first class the organization management and control of the police and of the markets is vested in a board of commissioners. These were at one time appointed by the government, then they were elected by the citizens; now they are appointed by the governor (one each year), and they hold office for five years. The statute prescribes very minutely how the force must be organized and what duties it is to perform. In cities of the second grade of the first class, like powers are vested in a board composed of the mayor as president, and four commissioners, one of whom is elected at each annual municipal election. The powers and duties of the board and the organization of the police force and the duties of officers and men are in this case also prescribed at length. In cities of the third grade of the first class, the police board is composed of the mayor and of one commissioner elected by each ward for two years. In cities of the first and second grades of the second class, the police board consists of the mayor and of four commissioners elected for four years. In other cities of the second class and in villages the council may provide by ordinance for the appointment by the mayor, with the consent of the council, of policemen and night watchmen to be under the control of the mayor, marshal or other officer, and the council prescribe their duties and define their powers.

The council of any city or village may establish, erect and maintain houses of refuge and correction, the management of which is vested in a board of five directors appointed by the mayor, with consent of the council; the powers and duties of this board are minutely defined and prescribed. The council may establish and maintain a prison and station house, which are under the control of the chief police officer, under such rules as the council prescribe, and may establish, erect and maintain a work-house, to be managed by a board of five directors appointed by the mayor, with the approval of the council, for five years. The council of city or village may establish a board of health composed of the mayor, who is *ex officio* president, and six members appointed for three years by the council, who serve without compensation. The council may establish and erect and maintain a hospital to be managed by the mayor and four trustees appointed by the mayor, with consent of the council, for four years; corporation infirmaries are managed by three directors, elected by the electors of the corporation for three years. Orphans may be received in such infirmaries. In cities of the first grade of the first class, the police commissioners are the directors of the infirmary. There are special provisions as to what the trustees of children's homes in cities of the first and second class may do.

The council of a city, except a city of the first grade of the first class, may appoint a board of improvements, such board to consist in cities of the second grade of the first class of the mayor, the civil engineer, the street commissioners, the chairman of the committee of streets of the city council, and one freehold elector, to be elected by the council; and in other cities to be composed in the same manner, except that the freeholder is appointed by the mayor, with consent of the council. This board supervises the cleaning, repairing and improving of streets, alleys, avenues, lanes, public wharves and landings, market houses and spaces, bridges, sewers, drains, ditches, culverts, ship channels, streams and water courses; and the lighting of all such public places as it may be deemed necessary to light within the corporation and under control of the council of the city. This board may make regulations for its own government, appoint a clerk and such person or persons to superintend and perform the work of making improvements, as the interests of the corporation demands. No improvements or repairs of the kind described, shall, where such board exists, be ordered or directed by the council, except on the recommendation

of the board, and the board superintends and constructs all works and improvements ordered by the council. Petitions for local improvements are presented to the board, who report thereon to the council.

The council of a village which has no engineer or street commissioners, may appoint two freeholders, who, with the mayor constitute a board, having similar powers. In cities of the second grade of the first class (Cleveland) the board of improvements divide the city into not less than five nor more than eighteen districts, for the purpose of "contracting to keep in repair and to clean the ditches, avenues, streets, alleys and market places." The Act prescribes the manner in which the board of improvements is to discharge its duties.

Cincinnati.

The form of government in Cincinnati, which is the only city of the first grade of the first class, is very peculiar. In that city, the whole executive authority is vested in boards, whose members are appointed by the governor of the state; the police, the fire department, and charities and corrections, are managed by such boards. The most important body is the board of public affairs. They control and manage all that relates to the laying out, establishing, constructing, extending, paving, repairing, cleaning and lighting of streets; the making, extending, repairing and cleaning of sewers; all that relates to the erection, draining and ventilation of buildings, the supply of water, and the preservation of the public health. They appoint officers of the public works, the water, the health, and other departments. All applications in connection with any of the departments under their control, must be made to them, and nothing can be done unless by their order. They meet in open session every day, to decide upon applications, consider official reports, and determine what should be done. The heads of the departments and the city solicitor usually attend the meetings, to give explanations, or make suggestions, but they take no part in the discussions. The city is divided into five districts. Each of the five members has charge of one, and he is supposed to have special charge of the works in his district. One member goes out of office every year, but he may be reappointed. The estimates for the various services of which the board has charge, are prepared by the board, after due consideration of the statements and recommendations prepared in each department, and are then sent to the city council for their consideration. After they have passed both boards of council, with or without amendment, they go back to the board of public affairs for further consideration. When the estimates have finally taken the shape in which they are approved of by both boards of the council, and by the board of public affairs, they are submitted to the board of tax commissioners, composed of the mayor, the comptroller and three other members. Any items may be reduced by this board. It is said that in this city there was at first but one board of council. This in time became obnoxious to the charges of waste and corruption, and a second board was created, in the hope that one would serve as a check on the other. The check did not prove sufficient, and a board of public works was created, composed of five members, who held office for five years. The members were appointed by the police judge. They received a salary of \$2,500 each, and were expected to give their whole time to the duties of their office. They held daily meetings. They had seats at both boards of council, and may take part in the deliberations, but they had not the right to vote. They were authorized to employ superintendents, engineers and other officers; they had all the powers which in other cities are vested in the various boards and commissions which have charge of such matters. This board made all contracts through its president, but no work exceeding \$500 in cost, could be undertaken, until a by-law authorizing it was passed by the council. Contracts could be modified only by order of the board. The council could pass no ordinance or resolution, authorizing any improvement, except upon the recommendation of the board. No grant of a street or highway for a street or other railroad or for any other purpose, could be made or renewed, unless recommended by the board, and no street could be used for supplying gas or water, or any such purpose, or be broken up or obstructed for any purpose, without permission of the board; nor could an ordinance for the payment of money for unliquidated damages be passed, nor any binding agreement respecting such damages be made, nor any property required for purposes under control of the board, be

purchased, leased or disposed of, without the recommendation of the board. The revenues of the water works were expended by this board, contracts for water works purposes were made by it, and the interest on the bonds, and all other claims on accounts of such works were paid by it. The board also supervised the cleaning of streets and alleys. They had the right to make investigation into all matters relating to the works under their charge, and to summon and swear witnesses. The mode of appointing the men who were entrusted with such powers, was not satisfactory, and for the board of public works, a board of city commissioners was substituted, whose members were elected for five years, one each year, by the electors of the city at large. The board of commissioners did not give entire satisfaction, and when a thorough reconstruction of the principal streets of the city, at an estimated cost of four million dollars was about to be made, another change in the civic government was thought necessary, in order to secure the proper expenditure of that large sum. The present Board of Public Affairs, whose members are appointed by the governor of the state, was created with powers even larger than those of the board which it superseded. The expenditure of the four million dollars for street improvements, is absolutely under the control of this board. Other expenditures to any large extent cannot be made, unless authorized and provided for by the city council.

Although the possession of powers so great by a body so constituted seems to be inconsistent with the principles of municipal government, careful enquiry led to the conclusion that the working of this system gives much satisfaction for the present. The impression amongst all parties seems to be that the board honestly strives to do what is right; that no frauds or swindles which they can prevent are perpetrated, and that on the whole the money placed at their disposal is honestly and judiciously expended. Earnest efforts are made to improve the sanitary condition of the city, but the difficulties to be overcome are very great, and the powers of the board in this respect are not as large as they should be.

The powers of the mayor are much less extensive than in Philadelphia, New York, Brooklyn or Boston. The powers of the comptroller, however, are quite as great as in any of those cities. He is elected for three years. All claims against the city must be audited by him before they are paid, and he may refuse to allow the payment of a claim which he believes to be improper. On one occasion, having reason to believe that the contractors for the paving of one of the streets was not using such granite blocks as his contract required, he refused to allow a payment to be made to them which was ordered by the board of public affairs on the certificate of the engineer, and he thus forced a judicial enquiry which prevented further abuse.

This immense variety of systems, forms, and methods, probably arose before the constitution required that all legislation respecting municipal and other corporations should be general. Each city and village framed a municipal system to meet the views of its own people, and each became so much attached to the distinctive features of its own system that it was found necessary to include them in the general Acts when it became necessary to generalize in appearance.

Taxation.

Even in the modes of assessment, of equalisation, and of apportioning the taxation, there is variety.

The constitution of Ohio declares that "the levying of taxes by the poll is grievous and oppressive; therefore the general assembly shall never levy a poll tax for county or state purposes."

"Laws shall be passed, taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, and also all real and personal property according to its true value in money; but burying grounds, public school-houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding two hundred dollars for each individual, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal, and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law."

"The general assembly shall provide by law for taxing the notes and bills discounted, or purchased, moneys loaned, and all other property, effects, or dues of every description (without deduction) of all banks now existing or hereafter created, and of all bankers so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals."

"The state shall never contract any debt for purposes of public improvements."

"The property of corporations now existing, or hereafter to be created, shall forever be subject to taxation the same as the property of individuals."

"The general assembly shall provide for the organization of cities and incorporated villages by general laws and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit so as to prevent the abuse of such power."

As in other states, all property, real and personal, tangible and intangible, except such as the law expressly exempts, is liable to taxation. As in other states, the property of the United States, of the state, of the city, or other municipality, and all religious, charitable, and educational structures are exempt from taxation; but the only exemption of personal property is that each individual may hold exempt from taxation personal property of any description, of which said individual is the actual owner, not exceeding fifty dollars.

The law limits the purposes for which and the extent to which the municipal authorities of cities, villages, and hamlets may impose taxes. For general purposes the council of a village may impose taxes to the extent of one half a mill; a city of the first or second grade of the second class, to the extent of one mill; a city of the third or fourth grade of the second class, to the extent of two mills; a city of the first grade of the first class to the extent of four and a half mills, and all other cities to the extent of two mills. The councils are authorized, however, to impose taxes for any of the twenty-three purposes stated in the statute. A tax greater than the statute authorizes may be imposed, if the question be duly submitted to the electors, and a majority vote in favor of the proposed tax. But all the taxes levied for all purposes, excepting the state, county, and school tax, and such tax as may be necessary to provide for the interest on the debt must not exceed in Cincinnati $12\frac{1}{2}$ mills on the dollar, in Cleveland 11 mills, in Toledo 19, in Columbus and Dayton $9\frac{1}{2}$ mills, in cities of the fourth grade of the second class nine mills, in villages of the first class eight mills, and in all other villages ten mills. Every person liable to taxation is required under penalty to furnish the assessor with a list of all his personal property under several heads, filling up the blank which the assessor supplies. The assessor having obtained such other information as he deems necessary, makes out his roll shewing all the real and personal property liable to taxation in his district, the value in each case, and the name of the owner. This he sends to the county auditor. Special means are provided for ascertaining and determining the amount at which banks, insurance companies, railway companies, and other corporations should be assessed; the assessments are equalized by the county board, the city board and the state board every year, and there is also a decennial equalization. Special boards also equalize the assessments of banks and railroads. When the assessments have been equalized, the auditor to whom the state, county, city and village officials have sent a statement of the amounts to be raised apportions the amounts amongst the ratepayers, according to the assessed value of the real and personal property, and the amounts on which corporations are to be taxed, and he hands to the county treasurer a duplicate of the lists so prepared. The county treasurer collects all the taxes, payment of which can be enforced; he pays to the state treasurer, on warrant of the state auditor, the amount to which the state is entitled, and on the warrant of the county auditor he pays to the treasurers of city, village, hamlet, and township, and to all having claims against the county, the sums to which they are entitled. As if there were not variety enough in all this, any municipality that chooses is authorized to levy and collect the authorized taxes within its own limits, through its own officers.

Mr. Bryce, in his work on the "American Commonwealth" * says: "Some idea of

the complexity due to the practice of giving special charters to particular cities, or passing special bills relating to them may be gathered from the fact that in Ohio, for instance, the duties of the mayor vary greatly in the six chief cities of the state ; there are duties which a mayor has in Cincinnati only, out of all the cities of the state ; others which he has in all the cities except Cincinnati ; others in Cincinnati and Toledo only ; others in Cleveland, Toledo, Columbus, Dayton, and Springfield only ; others in Cleveland and Toledo only ; others in Cleveland only ; others in Toledo only ; others in Columbus and Dayton only. These variations are the result, not of ordinances made by each city for itself, but of state legislation." In every respect the municipal system of Ohio is exceedingly complex.

ILLINOIS.

The municipal history of Illinois is peculiarly interesting, because in this state the county and the township systems came almost into conflict. Both exist to this day, but the township system steadily gains upon the quarter sessions system. The southern part of the state was first settled, and chiefly from Virginia, Kentucky, and the Carolinas. Naturally the settlers took with them the municipal system of the states from which they emigrated. The first settlers of the northern districts went from the New England States, and they established in these districts the township system. The constitution of 1818 and laws made pursuant to it, placed the entire business management of each county in the hands of a court of three commissioners. This, a writer in the Johns Hopkins series, regards as a reproduction of the Virginia court, although county affairs are managed in Massachusetts now by such a body. The members of the Illinois board, however, were elected by the people, and they had no judicial functions. It proved to be of some importance, too, in its effect on municipal formation, that Congress, as a preparation for the sale of the lands, caused them to be surveyed in blocks of six miles square, and called these townships, and gave to the people who settled in each of these townships a square mile of land for the support of schools. The Illinois constitution of 1848 provided that the legislature should pass an act authorizing any county to adopt township organization by vote of the people whenever it pleased. This allayed the feeling of hostility between the advocates of the two systems, which had become very bitter. About one-fifth of the 102 counties retain what is known as the county system. The form of township organization existing in Illinois, which is a modification of the New England system, the writer to whom we have referred, regards as the model system of the union.

The constitution of this state, adopted in convention in 1870, provides that all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform with respect to persons and property ; that "county authorities shall never assess taxes the aggregate of which shall exceed seventy-five cents per \$100 valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county" ; that* "the general assembly may vest the corporate authorities of cities, towns and villages with powers to make local improvements by special assessment, or by special taxation of contiguous property, or otherwise, and that for all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same." Section 12 provides that "no city, township or school district, or other municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount, excluding existing indebtedness, in the aggregate, exceeding five per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness ; any county, city, school district, or other municipal incorporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax, sufficient to pay the interest on such debt as it falls due, and also to pay

*Article 9, sec. 9.

and discharge the principal thereof within twenty years from the time of contracting the same." The fourteenth article provides that "no county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donations to, or loan its credit in aid of such corporation." The tenth article provides that "no new county shall be formed or established by the general assembly which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten square miles of any county seat of the county or counties purposed to be divided, and no county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same. There shall be no territory stricken from any county unless a majority of all the voters living in such territory shall petition for such division, and no territory shall be added to any county without the consent of the majority of the voters of the county, to which it is proposed to be added. No county seat shall be removed until the point, to which it is proposed to be removed, shall be fixed in pursuance of law, and three-fifths of the voters of the county shall have voted in favour of its removal to such point."

The counties of this state, exclusive of Cook county, are of two classes—those which are under township organization, and those which are not. Article ten, section five, declares that "the general assembly shall provide, by general law, for township organization, under which any county may organize, whenever a majority of the legal voters of such county, voting at any general election, shall so determine . . . and in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law." Section four of what is called the schedule, provides that "county courts for the transaction of county business, in counties not having adopted township organization, shall continue in existence, and exercise their present jurisdiction, until the board of county commissioners, provided in this constitution is organized; and the county courts, in all other counties, shall have the same power and jurisdiction they now possess, until otherwise provided by a general law." Section six of article ten provides that "at the first election of county judges under this constitution, there shall be elected in each of the counties in this state, not under township organization, three officers, who shall be styled the board of county commissioners, who shall hold sessions for the transaction of county business, as shall be provided by law." They were to hold office for three years, one to be elected each year. The county affairs of Cook county, in which Chicago is situated, it is provided, shall be managed by a board of commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside said city. The eighth section of this article provides that, "In each county there shall be elected the following officers:—County judge, sheriff, county clerk, clerk of the Circuit Court (who may be *ex-officio* recorder of deeds, except in counties having 60,000 and more inhabitants), a recorder of deeds (if the inhabitants exceed 60,000), treasurer, surveyor, and coroner. These are to hold office for four years, except the treasurer, sheriff and coroner, who shall hold their offices for two years. The clerk of the Courts of Record, the treasurer, sheriff, coroner, and recorder of deeds, receive as their only compensation salaries fixed by law, which in no case shall be as great as the compensation of a judge of the Circuit Court of the said county, and shall be paid respectively only out of the fees of the office actually collected; all fees and perquisites, in the excess of the salary, are paid into the county treasurer. The county board fix the compensation of all other officers. The salary is not to exceed \$1,500 in a county of only 20,000 inhabitants. It may be larger in proportion to population, and amount to \$4,000 in a county having 100,000 inhabitants, and for each additional 100,000, an additional \$1,000 may be paid; but in all cases where fees are provided for, the compensation shall be paid only out of the fees, and shall in no case exceed them, "after the adoption of this constitution." The fees of township officers, and of each class of county officers, were made uniform according to class; and the general assembly was required by general law, uniform in its operation, to provide for and regulate the fees, so as to reduce the same to

a reasonable compensation for services actually rendered; but the general assembly may⁹ by general law, classify the counties by population into not more than three classes, and regulate the fees according to class.

The amended constitution also provides* that "no law shall be passed by the general assembly granting the right to construct and operate a street railroad within any city, town or corporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad."

Township Organization.

The statutes of Illinois, as revised in 1880, contain in several chapters, general provisions for the municipal government of townships, counties, cities and villages. Some special charters seem to have been in existence when these general Acts were passed, and means are provided by which places governed under such special charters may adopt the general law under the provisions of which they would thenceforth be governed.

Where the township organization exists in Illinois it resembles that of Massachusetts. The people, assembled in annual or special town meetings, themselves do the work of legislation, determine what works shall be undertaken, what expenditures made, and what rate levied for township purposes, and elect, not representatives empowered to do the work of legislation and administration in their name, but officers who are to carry out what the town meeting has ordered. The electors present on the day appointed by law for the annual meeting are called to order by the town clerk, between the hours of eight and nine o'clock of the forenoon. The electors then choose one of their number to preside at their meeting. This person, who is called the moderator of the meeting, takes an oath to discharge the duties of the position faithfully and impartially, and the town clerk acts as clerk of the meeting.

The elections are then held. At two o'clock in the afternoon the polls are closed, and then the moderator calls the meeting to order for the transaction of miscellaneous business. All questions upon motions made are determined by a majority of the electors present and voting. The moderator ascertains and declares the result of the vote upon each question, the voters rising to be counted, or dividing off as he may direct.

Each town has a corporate name in which all its acts are done, and has "corporate capacity to exercise the powers granted thereto or necessarily implied." It has power "to sue and be sued, to acquire by purchase, gift or devise, and to hold property, both real and personal, for the use of its inhabitants and again to sell and convey the same; to make all such contracts as may be necessary in the exercise of the powers of the town."

The electors present at the annual town meeting have power to make all orders for the sale, conveyance, regulation or use of its corporate property that may be deemed conducive to the interests of the inhabitants, to take all necessary measures and give directions for the exercise of their corporate powers; to direct the raising of all money by taxation for the following purposes:—

For constructing or repairing roads, bridges or causeways within the town, to the extent allowed by law.

For the prosecution or defence of suits by or against the town, or in which it is interested.

For any other purpose required by law.

For the purpose of building or repairing bridges or causeways in any other town (with such restrictions and on such conditions as are prescribed).

To provide for the institution, defence or disposition of suits at law in which the town is interested.

To prevent the introduction or growing of Canada thistles or other noxious weeds.

To offer premiums and take such other action as may induce the planting and cultivation of trees along the highways.

To make regulations respecting fences, and determine what shall be a lawful fence.

*Art. 11, sec. 4.

To restrain, regulate or prohibit the running at large of cattle, horses and other animals.

To establish and maintain pounds ; to determine the number of pound-masters and prescribe their duties, and to elect or provide for the appointment of pound-masters.

To authorize the distraining, impounding and sale of cattle and other animals for penalties incurred and the costs of proceeding ; the sale of animals distrained or impounded to be conducted as nearly as may be according to the law regulating the sales of property by constables under execution, the owners to have the right to redeem within three months any animals so sold.

To construct and keep in repair public wells and other watering places, and regulate their use ; to prevent the deposit of offensive matter within the limits of the town.

To make all such by-laws and regulations as may be necessary to carry into effect the powers granted by the Act, to impose fines not exceeding \$50 for one offence, and to apply such penalties as will be collected in such manner as may be deemed most to the interest of the town.*

Whenever the boundaries of a city or incorporated village are co-extensive with the limits of a town or the town lies wholly within the limits of an incorporated city or village, the electors are not to direct the raising of money in town meeting, but the money required for town purposes are ascertained by the county board, and the county clerk having extended the amount so ascertained upon the collector's books, it is collected and paid over to the town supervisors.

The town officers elected at the annual meeting are one supervisor, who is also *ex-officio* overseer of the poor, one town clerk, one assessor and one collector, who severally hold their offices for one year, and such justices of the peace and highway commissioners as are provided by law. If the town has 4,000 inhabitants one assistant supervisor is elected. If it has 6,500 inhabitants it elects two assistant supervisors, and so for every 2,500 inhabitants one additional assistant supervisor. Cook county is excepted from the operation of this section. The elections are by ballot and careful provision is made as to the manner in which they are to be conducted. When the proper number of officers are not elected, or when a vacancy occurs, the justices of the peace of the town, the supervisor and the town clerk, acting as a board of appointment, fill the vacancy or vacancies by appointment.

The supervisor receives and pays out all money raised for defraying town charges, except what is raised for the support of highways and bridges, and on the Tuesday preceding the next annual meeting files with the town clerk a full statement of the receipts and expenditures, and of the general financial affairs of the town. It is the duty of the clerk to post up a copy of this statement at the place of the annual meeting two days before the meeting is held, and also "to read aloud such statement to the electors at such meeting." The supervisor is required to account on the Tuesday preceding the annual town meeting to the board of auditors for all moneys received and disbursed by him in his official capacity, and at such accounting the justices and town clerk are required to enter in the supervisor's book of accounts a certificate shewing the state of his accounts at that date. The supervisor is also required to receive all accounts against the town that may be presented to him and to lay them before the town auditors at or before their next meeting.

The highway commissioners are three in number and hold office for three years, one going out of office each year. The moneys collected for the construction and maintenance of roads and bridges are paid directly to the treasurer of the board of commissioners by the collector, and they submit their accounts of receipts and expenditures to the board of audit.

The supervisors, assessor and town clerk constitute a board of health, and on the breaking out of any contagious disease have power to make and enforce rules and regulations tending to check the spreading of such disease. They may shut up any house where infected persons are and remove the infected to any pest house within the limits of the town. The town clerk is required to keep a full record of the doings of the board,

and to report the same to the annual town meeting. Expenditures made by them are audited by the board of auditors and paid as the other town expenses.

The board of town auditors is composed of the supervisor, town clerk and justices of the peace. Not less than three of these must be present for the transaction of business. In case of the absence of any, those attending may associate with them the collector or assessor, or both, and these are for the time members of the board. The board is required to meet twice a year at the town clerk's office to audit the accounts—on the Tuesday next preceding the annual meeting of the county board and on the Tuesday next preceding the annual town meeting. They examine them and audit the accounts of the supervisor and overseer of the poor (where the town sustains its poor), and of the commissioners of highways, and all charges and claims against the town. The accounts audited and those rejected, if any, are filed with the town clerk for inspection by any of the inhabitants, and they are produced and read by the clerk at the annual town meeting. The board may require any account presented to them to be verified by affidavit. When the board audit any claim they make a certificate specifying the nature of the claim and to whom the amount is allowed, and this is delivered to the town clerk to be kept by him for the inspection of the inhabitants, and is read by him at the annual meeting, and the aggregate of the amounts so certified is raised at the same time and in the same manner as the amounts required for town purposes.

The compensation of the town officers is fixed by the statutes. The town clerk and supervisor are paid two dollars and a half a day each when attending to town business out of the town, and one dollar and a half when attending to town business in their town. The town clerk is paid by fees for his several services. The town assessor is paid \$2.50 per day. The pound-master is paid by fees. The officers of the board of appointment, the members of the board of town auditors, and the members of the board of health, are paid \$1.50 each for every day they actually serve. The treasurer of the board of highway commissioners is paid such sum as the board agrees upon, not to exceed two per cent. of all money received and paid out by him. In any county under township organization, the county board may provide that the territory within any city in such county, having at least 3,000 inhabitants, be erected into a town if the city, by resolution, so request. And the act declares that the territory of any city thus organized within the limits of a county under township organization and not situated within any town shall be deemed a town. All town officers in a city thus created a town are elected at the annual charter elections at the same polling places at which the city elections are held. The powers vested in such towns are exercised by the city councils, which may, by ordinance, provide that the offices of city and town clerk be united in the same person, that the election of highway commissioners be discontinued, that the offices of supervisor and poor master be separated and the poor master be appointed by the city council. The city council, in such cases, may also from time to time regulate the number of justices of the peace, police magistrates and constables, that shall be elected within such town, but the number shall not in any case exceed the number allowed by law to other towns of like population. Vacancies in any of the town offices within such city and town may be filled by the city council.

This system differs from that of Ontario chiefly in this, that the people of the township do the most important part of their business themselves, directly at their town meetings. It is evidently essential to the successful working of such a system that the electors should constantly take an active intelligent interest in all that is going on, should attend the town meetings regularly, and be prepared to approve or disapprove, intelligently, of what has been done, to determine whether the money raised for town purposes has been properly expended, whether claims made are well founded, and whether the proposals made should be adopted or rejected. The audit of accounts, which in some cases is a pre-audit, should, it would seem, be sufficient, especially as the accounts in detail are submitted to the people themselves, as the board of final audit. Under such a system, however, gross abuses may exist, if the people do not look sharply after the business of the municipality. The powers given to the town meeting, in Illinois, are not as extensive, in some respects, as those possessed by the township municipality in Ontario.

Counties.

The powers of the county, as a body corporate or politic*, are exercised by a county board, to wit:—in counties under township organization, except the county of Cook—by the board of supervisors, which is composed of the town supervisors and such other as are or may be elected pursuant to law; in counties not under township organization by the board of county commissioners.

The organization of the counties in which township organization exists, resembles very much the organization of county municipalities in Ontario. If we substitute the title of reeve for that of supervisor, and of deputy reeve for that of deputy supervisor, the only apparent remaining differences is that the reeve and deputy reeve are elected by the township municipality in Ontario, and that the deputy Reeves are members of such municipalities, while in Illinois the supervisor and deputy supervisor are elected directly by the people, and the assistant supervisors have no power or duty as town officers, but are members of the county board, having and enjoying the same rights as other members.† The members of the county board elect at the December session one of their own body to be chairman for the year.

The county boards have power to hold and manage all real and personal property belonging to the county; to manage county funds and the county business, except as otherwise specially provided; to examine and settle all the accounts of the county; to provide a workhouse in which persons convicted of offences punishable by imprisonment may be confined and employed, and to make rules and regulations for the management thereof; to cause suitable buildings for a county insane asylum to be erected or provided; to maintain and provide for the management of such asylum; to cause the taxes required for county purposes, to an extent not exceeding seventy-five cents on one hundred dollars valuation, to be levied and collected, and such sum besides, not exceeding one per cent. of the valuation, as may be required to pay the interest and principal of any indebtedness that existed when the constitution was adopted; to authorize the vacation of any town plot, not within any incorporated town, village, or city, on petition of two-thirds of the owners thereof, and on petition to change the name of any town plot, the inhabitants of which are not incorporated.

Another section defines the duties of county boards. They are to erect, or otherwise provide, when the finances of the county will permit, a suitable court house, gaol and other county buildings, proper rooms and offices for the several courts of record of the county, and for the county board, county clerk, county treasurer, recorder, sheriff, and the clerks of said courts, and to provide suitable furniture therefor. But in counties not under township organization no appropriation can be made for public buildings until the proposition has first been submitted to a vote of the people of the county, and approved by them. It is declared also to be the duty of the board to provide for all those offices proper safes, books and stationery. It is also the duty of the board to cause to be published at the close of each meeting of the board a brief statement of the proceedings thereof in one or more newspapers published in the county, in which shall be set forth the name of every individual who shall have had any account audited and allowed by the said board, the amount of said claim as allowed, and the amount claimed; and also their proceedings upon the equalization of the assessment roll, and to make out at its meeting in September, annually, a full and accurate statement of the receipts and expenditures of the preceding year. This is to contain a full and correct description of every item, from whom or on what account each sum has been received, to whom each sum has been paid, and on what account it has been expended. This shall also contain a full and accurate statement of the finances of the county at the end of the fiscal year, including all debts and liabilities and the assets and other means to discharge the same. Copies of this statement are to be posted up within thirty days, at the court house door and two other places in the county, and to be published for one week in some newspaper therein. Much importance is attached to

*Revised Statute of Illinois, A. D., 1880, chap. 34, Section 23.

†Revised Statutes Illinois, chap. 139, sec. 110.

publicity as a check to corruption, waste and extravagance. If the board deem it necessary to assess taxes, exceeding in the aggregate seventy cents in the dollar, for other purposes than that of paying principal or interest of the debt existing when the constitution was adopted, they may submit the question to the people, stating in their notice how much is required, and the purpose for which it is required, and if a majority of the votes, cast at an election duly held, be in favour of such additional taxation the board shall have power to cause such tax to be levied and collected, but the money so collected must be kept in a separate fund, and be disbursed only for the purposes for which it is raised. The issue of bonds may be authorized at the same election at which the question of increasing the taxation is voted upon. The amount of the bonds issued under such authority shall not exceed, including the then existing indebtedness of the county, five per cent. of the value of the taxable property of the county, as ascertained by the assessment of the state and county tax for the preceding year. The bonds must be of the denomination of not less than \$25, or more than \$1,000 each. The drainage of lands and the improvement and regulation of water courses is not entrusted to the county boards, but they are authorized* to cause the removal, in such manner as they may direct, of the driftwood and other obstructions from the natural water courses, in their respective counties.

Some provisions of the law are specially applicable to the board of a county having township organization, and others to the boards of county commissioners. It is provided† that the board of county commissioners shall meet for the transaction of business on the first Mondays of December, June, March and September, and the second Monday of July, and that they may hold special sessions on the call of the chairman or any two members of the board, whenever the business of the county so requires. It is provided‡ that the board of supervisors shall hold their annual meeting on the second Tuesday of September in each year, and that a regular meeting shall be held on the second Monday of July of each year, and at such other times as may be provided by law. But the board of supervisors hold special meetings only when at least one-third of the members of the board make request in writing through the clerk, who, upon receiving this, immediately transmits notice of the time and place of meeting to each member of the board, and causes notice of such meeting to be published in a newspaper printed in the county. The provisions as to the election of a chairman, and as to what constitutes a quorum are substantially the same in both cases. Any member of the board of commissioners may administer an oath to any person concerning any matter submitted to the board, but only the chairman of the board of supervisors is authorized to administer such oath.

The board of commissioners have general supervision of all highways, roads and bridges in the county, including state roads. "The board of supervisors, it is provided§, shall have power to appropriate funds to aid in the construction of roads and bridges in any part of the county, whenever a majority of the whole board of the county may deem it proper and expedient."

Section 46 provides that "the board of county commissioners shall be the successor of the county court in relation to all matters concerning county affairs, and where in any county, not under township organization, the county court is authorized to do any act, or make any contract on behalf of the county, such authority shall be vested in such board."

Section 57 provides that the board of supervisors shall have power to change the boundaries of towns, to create new towns in their respective counties, in the manner provided by law, to give names thereto, and fix the place of holding the first town meeting therein. Great formality in the naming of a new town, or changing the name of an old town is prescribed.

Roads and Bridges.

Chapter 121 of the Revised Statutes of Illinois provide how roads and bridges are to be constructed and kept in repair. The work is done entirely under the direction and control of the commissioners of highways in the counties under township organization.

They appoint their own treasurer, who receives all moneys collected for such purposes, and what is paid in commutation of statute labor. Every able-bodied man, not a pauper or a lunatic, is required to labor on the highways in his district, as the overseers, acting under direction of the commissioners, may direct, not less than one nor more than three days in each year. The commissioners of highways are authorised to ascertain every year, as nearly as practicable, how much money must be raised by tax on real and personal property, for making and repairing roads only, not exceeding forty cents on each one hundred dollars, according to the assessment of the previous year.

The commissioners affix to the name of each person named in the lists furnished by the overseers the number of days' labor for which he is assessed; copies of the list so prepared are given to the overseers. The persons thus assessed may pay in labor, unless the electors, at the annual town meeting, determine that payment shall be made in money. If the electors so decide, the commissioners may enter into contracts, to be publicly let on the first Monday of May in each year, for the construction or repair of roads and bridges. If a rate greater than forty cents on the dollar be required, or it be necessary to borrow money for an expensive work, authority must be obtained from the town meeting. Roads laid out by order of the commissioners are to be not less than fifty nor more than sixty feet in width. The commissioners may lay out, alter, widen or vacate any road in the township on petition of twelve freeholders residing in the town, and within three miles of the road, if, having heard all parties after due notice, they determine that what is asked for should be done. The other provisions, as to the construction and repair of works in the towns, the regulation of their use, the removal of obstructions, and the destruction of noxious weeds and the provisions for the enforcement of statute labor and the collection of rates, when paid in money, are of the usual character. Public roads may be established, altered, widened or vacated on township or county lines, or from one township into another. In this case, the petition from the freeholders is presented to the commissioners of highways of each of the towns interested, who thereupon meet and act as one body, viewing the premises, adjusting damages and making all necessary orders; and when a new road is so established they allot to each town the part it shall open and keep in repair. Any person interested may appeal from the decision of the commissioners. The Court of Appeal, in such cases, is composed of three supervisors of the county summoned by a justice of the peace. When the commissioners of one town disagree with the others an appeal may be taken in like manner. But when the decision appealed from is as to a road on a county line, two commissioners of highways and one supervisor shall be selected from one county and two supervisors and one commissioner from the other, as the parties appealing choose. Town and county line roads are maintained by the towns interested. Bridges over streams which divide towns or counties, and bridges over streams on roads on town or county lines are built and repaired at the equal expense of such towns or counties. The expense of building and maintaining bridges over streams near the boundary line, in which two counties or towns are equally interested, is borne equally by both. The commissioners of the adjoining towns or counties are authorised to enter into joint contract for the building of such bridges. "When it is necessary to construct or repair a bridge in any town or over any stream between towns or over streams on roads between towns in the same county, which would be an unreasonable burden to the same, the cost of which is more than can be raised in one year by ordinary taxes for bridge purposes in such towns or one of such towns, the commissioners of highways of either town desiring to build such bridge shall present a petition to the county board of the county in which such town or towns are situated, praying for an appropriation from the county treasury to aid in the building, constructing and repairing of such bridge; and such county board shall, when one-half the necessary funds have been provided for by the town authorities of either or both such town or towns, appropriate the other half."* The compensation for commissioners of highways is fixed at \$1.50 per day.

The powers of the county boards, in counties not under township organization, are similar to those described above, although the mode of proceeding when the opening of a new road is sought, and in other cases, is somewhat different.

*R. S. Illinois, chap. 121, sec. 110.

The county board of commissioners divide the county into highway districts, and appoint a supervisor for each, whose duty it is to cause all the public roads in his district to be kept clear, smooth and in good repair. The board have power to fix the number of days, not exceeding five nor less than two, that each able-bodied man shall labor on some public road in the county within the year, and, in addition to assess, a road tax of not more than twenty cents on each hundred dollars of the assessed value of all property, real or personal, within the county.

Money collected by authority of the county, in any city or village, is paid over to the authorities of such city or village to be expended on its streets.

Cook county, in which the city of Chicago is situate, is divided into six districts for county purposes. The city elects two commissioners, and each of the other districts elects one; all hold office for three years. The board, so constituted, has all the powers of county boards in counties under township organization.

Audit.

The provision for auditing county accounts† is as follows :—

“Before any claim against a county is audited and allowed, the claimant or his agent shall verify the same by his affidavit, stating that the several items therein mentioned are just and true, and the services charged therein or articles furnished, as the case may be, were rendered or furnished as therein charged, and that the amount claimed is due after allowing all just credits. And when the claim of any person against a county is disallowed, in whole or in part, by the county board, and the nature of the claim is not such that the allowance is discretionary with the county board, such person may appeal from the decision of such board to the Circuit Court of the same county upon filing a bond with the clerk of such court within twenty days after the rendition of the decision, with such security as shall be approved of by such clerk, in the penal sum of \$250, payable to the people of the State of Illinois, for the use of such county, conditioned that he will prosecute the appeal with effect, and pay all costs that may be adjudged against him.”

The county treasurer is commissioned by the governor and he gives bonds to such amount as the county board deem sufficient. He receives all county moneys and makes payments as the law directs and as the county board order. All orders for payments must be countersigned by him. His account books are free at all reasonable times to all who choose to examine them. He makes full report of receipts and payments to the county board at each of its regular meetings, and this report is filed in the office of the county clerk for public inspection. He must render an account and make a settlement whenever the county board so require, and it is the duty of the board to examine his accounts and make a settlement with him at least once every six months. He may at any time be examined under oath by the board, touching any matter in regard to the faithful discharge of his duty. For neglect or refusal to render an account and make a settlement as required by law he may be removed from office, and for any neglect of duty he is liable to a pecuniary penalty not less than \$50, and not exceeding \$1,000.

The system of audit does not seem quite satisfactory, as much depends on the vigilance of the county boards, and bodies so large as the boards of counties under town organization are seldom duly vigilant.

Drainage.

The drainage of wet lands is carried on by commissioners appointed by the county court, on petition of the persons interested. When a majority of the owners representing one-third in area of the lands to be benefited, desire to construct a drain or drains, ditch or ditches, levee or levees, or other work across the lands of others for agricultural, sanitary or mining purposes, or to keep in repair and maintain any such work already

constructed, they file a petition in the court of the county in which the greater part of the lands to be affected lie, setting forth all the facts, describing the work to be done, its starting point, route and terminus, naming the owners of the lands to be affected, and asking for the organization of a drainage district within the boundaries proposed, and for the appointment of commissioners for the execution of such work. When this has been done, a day is named on which, due notice having been given, objections may be made. These having been heard, the court decides whether the petition has been signed as the law requires, and if it has been properly signed—whether the work is necessary. If the court finds that the work is necessary, or that it would be useful for the drainage of the land proposed to be drained thereby if carried out according to the plan submitted or an approved modification of that plan, the court appoints three disinterested persons commissioners to lay out and construct the proposed work. If the lands to be drained are in different counties, not more than two of the commissioners shall be chosen from any one county. The commissioners elect one of their number chairman, and may elect one as secretary. They, as soon as may be, examine the lands to be benefited, and the lands through or over which the proposed works are to be constructed, and report to the court whether the proposed work is feasible, and the location, route and terminus are proper in all respects. They report also the probable cost of the work ; the probable annual cost of maintaining it and keeping it in repair ; what lands would be injured by it, and what the damages would probably amount to ; what lands would be benefited and what the aggregate amount of the benefits would be ; whether the proposed district includes all the lands to be affected, and if not, what other lands would be affected. If the petition asks only for repairs, the commissioners make a similar report. If they report that the damages would exceed the benefits, the petition is dismissed with costs ; otherwise they cause survey, plans and profiles, and specifications to be prepared, and report their conclusions, and submit copies of such plans and other papers to the court which appointed them. They may make such changes in the original plans as seem good to them, and the court may on application of any party interested, or of the commissioners themselves, order any changes to be made in the plans submitted by the commissioners. Before the report is confirmed, a day is publicly appointed on which all interested may object to the confirmation, or show why the plans should be modified. When the report is confirmed the district is legally organized as a drainage district, a body corporate and politic, and the commissioners and their successors in office, the corporate authorities. The court then empanels a jury of twelve qualified men who are sworn to discharge their duties faithfully, or directs that a jury be empanelled before a justice of the peace. These jurors examine the land and ascertain to the best of their ability what the benefits or the damages will be in each case, and make out a roll containing the names of the owners of the lands, a description of the lands and what they think the damages or benefits will be in each case. Where, on the land belonging to one owner, benefits will be conferred and damages caused, the amount of the one is deducted from the other and the balance is carried forward. In case of repairs, the amount to be expended must not in any one year exceed the sum that would be produced by a levy of thirty cents per acre on all the lands to be benefited. The court by whom the jury is empanelled appoints a day on which objection to the assessment may be made before the jury. Appeal may be made to the court from the final finding of the jury and from the finding of the court on such appeal there may a further appeal.* After the assessment has been fully confirmed, the commissioners appoint a treasurer who is not one of their number who receives all moneys paid under the assessment and pays on the order of the commissioners for work and services. The commissioners are authorized to make contracts ; all for work above \$500 to be let to the lowest bidder at public competition. They are authorized to borrow money not exceeding in amount what remains due of the assessment at the time of borrowing, and to issue bonds ; and all damages over and above benefits to any tract of land that has been assessed, must be paid to the owner before the commissioners are authorized to enter on his land for the construction of any work there-

*Chap. 42, sec. 25.

upon. The owners of lands above or below the^b works constructed, even though outside the drainage district, have a right to compensation for any injury done to them by such works. The court may at any time for cause remove one or more of the commissioners. The commissioners are entitled to \$2 a day each for every day they are actually employed in the work. They are bound to make a report of the progress and construction of the work once a year to the court by which they were appointed, and oftener if the court so require. All the power necessary for carrying on the work is given to the commissioners and their duties are carefully defined.

When the cost of the proposed work will not exceed \$5,000, and the work will not extend through, or into more than three congressional townships, the petition may be filed with a justice of the peace in the county in which the land to be affected, or the greater part of it lies, and in such case the justice has authority to do all that the county court may do in other cases as to the assessment of damages and benefits, and may if the petitioners so choose, appoint one or more commissioners, not exceeding three, to lay out and construct such work; otherwise he is to direct the commissioners of highways of the town or towns in which the work is to be done to act as a joint board for such purposes, and the commissioners so appointed or directed, have all the power of commissioners appointed by the county court.

Parties who have made private drains by which any of the land in the drainage district has been benefited, are allowed due compensation in making the assessment. Any enlargement of drain or ditch rendered necessary by the draining of higher lands outside the district, must be paid for by such lands. Railroads benefited by drainage may be assessed for the value of such benefits.

Persons who desire to construct a drain or ditch at their own expense, and for the drainage of their own lands across the lands of others, may, if those others refuse permission on reasonable terms, obtain authority to make such drain on payment of damages, if any be awarded, by applying in counties under township organization to the commissioners of highways, who thereupon view the lands, determine whether such a drain is necessary, where it should run, and how it should be constructed, and whether the person or persons whose lands it is to cross is or are entitled to damages. An appeal may be made from their decision. In other counties, application in such cases is made to the county board who appoint viewers on whose report after having heard any objections that may be made, they take action as this chapter directs.

What previous to the consolidation of the statutes was a distinct act of the legislature provides that in counties under township organization the commissioners of highways may be drainage commissioners, and on petition of the owners of lands may carry out such drainage works in their respective townships as they may adjudge necessary or useful; assess damages and benefits, by means of a jury, when the right of way cannot be procured by agreement with the owners; collect the assessments; expend the money collected and do all else that may be necessary. Appeal lies from their decision to a board composed of the supervisors of townships in the county outside the proposed drainage district. When the works are to extend to more than one township the commissioners of highways of all the townships interested form a board to lay out and construct the work. In counties not under township organization the county commissioners may act as drainage commissioners. Appeal from their decision lies to a board composed of the county surveyor, county treasurer, and sheriff; and appeal may be made from the decision of that board to the county court.

When the lands to be drained lie in different counties or in more than two townships the county court may, on application for the creation of a special drainage district including all such lands after having received the report of the commissioners appointed to report upon the petition, order that the district be organized, and then on notice given by the clerk of the county, an election of three drainage commissioners is held in the district. The election is held according to the general election law of the state, but only those who own land in the district are eligible. The commissioners thus elected have the same powers and functions as the commissioners in other cases.

Cities and Villages.

In 1872, a general act for the incorporation of cities and villages,* was passed by the legislature of Illinois. It provided that any city then existing may become incorporated under this Act, and that any incorporated town or village in the state having a population of not less than a thousand "in an area of contiguous territory not exceeding four square miles," may become a city. The Act prescribes the mode of proceeding in both cases, and provides that all rights and property of every kind and description which were vested in any municipal corporation under its former organization, should be deemed and held to be vested in the same upon its becoming incorporated under the provisions of this Act, and all ordinances and by-laws should continue in force and operation.

The general Act provides that the city council shall consist of the mayor and aldermen; that the mayor shall be a citizen of the United States and a qualified elector, and shall reside within the city; that he shall be elected at the general election and hold office for two years.

The number of aldermen, where the minority representation plan has not been adopted is, in cities not exceeding 3,000 inhabitants, six; in cities exceeding 3,000 but not exceeding 5,000, eight; exceeding 5,000 but not exceeding 10,000, ten; exceeding 10,000 but not exceeding 30,000, fourteen, and two additional aldermen for every twenty thousand inhabitants over 30,000. Provided, however, that in cities over 100,000 inhabitants 36 aldermen shall be elected and no more. The aldermen are elected for two years. The law provides that the city council may, from time to time, divide the city into one half as many wards as the total number of aldermen to which the city is entitled, the population of the wards to be as nearly equal as possible. One of the two aldermen to represent each ward is elected every year.

But a city may, when it adopts this Act, adopt also the principle of minority representation, or it may adopt that principle at any general election afterwards, due notice having been given, or at a special election held for the purpose in the manner prescribed by the Act; and when this principle has been adopted, the municipal council shall "apportion such city by dividing the population thereof as ascertained by the last Federal census by any number not less than two nor more than six, and the quotient shall be the ratio of representation in the city council. Districts shall be formed of contiguous and compact territory, and contain as nearly as practicable an equal number of inhabitants." Every such district shall be entitled to three aldermen who shall hold office for two years. In all elections for aldermen under this system, each qualified elector may cast as many votes as there are aldermen to be elected in his district, or may distribute the same, or equal parts thereof, amongst the candidates as he shall see fit, and the candidate (or candidates) highest in votes shall be declared elected. The city council is judge of the election and qualification of its own members. The council may, two-thirds of the members concurring, expel an alderman for misconduct.

A majority of the aldermen constitute a quorum. The council may, by ordinance, prescribe the place and times of its meetings. The meetings of the council must be held with open doors. The council must keep a journal of its proceedings. The yeas and nays must be taken upon the passage of all ordinances and on all propositions to create any liability against the city or for the expenditure or appropriation of its money, and in all other cases, at the request of any member, which shall be entered upon the journals of its proceedings, and a majority of all the members elected to the council shall be necessary to the passage of any such ordinance or proposition. The mayor presides at all meetings of the council but does not vote, except in the case of a tie, when he gives the casting vote. He annually and from time to time gives the council information respecting the affairs of the city, and recommends for their consideration such measures as he deems expedient. Before any ordinance can take effect it must, after having been adopted in the office of the city clerk, be approved of and signed by the mayor. If the mayor does not approve of it, he

* R. S. of Illinois, chap. 24.

returns it to the council at its next meeting, occurring not less than five days after its passage, with his objections in writing. Such veto may extend to any one or more items or appropriations in any ordinance making an appropriation or to the entire ordinance, and if it is made only to a part the rest takes effect and is in force. If the mayor does not return any ordinance with his objections within the time stated, he is deemed to have approved of it, and it takes effect accordingly. Upon the return of any ordinance to the council by the mayor, the vote by which it was passed is re-considered, and if two-thirds of all the members elected to the council agree by yeas and nays to pass the same it shall go into effect notwithstanding the mayor may refuse to approve thereof."* In the absence of the mayor the council elects one of its members to act as mayor for the time.

The legislative powers of the councils, as stated in ninety-six clauses of the 62nd section of the same Act, are extensive. They are empowered to make provision for the establishing, opening, making extension, altering, repairing, cleaning and lighting of streets; the making and repairing of sewers; the construction and management of mill-races through the streets; the regulation of buildings as to the thickness of party and other walls, the position and size of flues, the sufficiency of drainage; the sufficiency of the means of egress from large buildings; the establishment and regulation of markets and of ferries; the regulation of harbours to a distance of three miles from the city lines, of public docks and slips and of the rates of dockage; the licensing of taverns and places of refreshment and entertainment; the licensing and control of all public amusements; the establishment and control of a fire department and a police force; the licensing and regulation of vehicles for hire and of the manner in which the streets may be used; the licensing of livery stables, lumber yards, distilleries, breweries, auctioneers, money-changers, brokers and second-hand and junk stores; to direct the location and regulate the management of packing houses, bone factories, tallow, chandleries, soap factories, tanneries, distilleries and breweries within the limits of the city and within the distance of one mile without the limits; to regulate the assize of bread, the weighing and measuring of brick, lumber, coal, wood and other articles, and the sale of meats, poultry, fish and other provisions; to declare what is a nuisance and to abate all nuisances; to provide for the inspection of steam boilers. There seems to be scarcely any legislative power which a municipal council should possess that is not conferred by this section. They are authorized to permit, regulate or prohibit the locating, constructing or laying of any horse railroad in any street, alley or public place, but such permission shall not be for a longer time than twenty years. Another clause, the 90th, provides that the city council shall have no power to grant the use of or the right to lay down any railroad tracks in any street of the city to any steam or horse railroad company, except upon a petition of the owners of the land representing more than one-half the frontage of such part of a street as is sought to be used for railroad purposes.

They are also authorized to provide for and change the location, grade and crossing of any railroad (within the limits of the city); to require railroad companies to fence their respective railroads or any portion of the same, and to construct cattle guards and crossings of streets and public roads, and keep the same in repair; . . . to require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property in the use of such railroads; to compel such railroads to raise or lower their railroad tracks to conform to any grade which may at any time be established by such city, and where such tracks run lengthwise of any street, alley or highway, to keep their railroad tracks on a level with the street surface, and so that such tracks may be crossed at any place on such street, alley or highway; to compel and require railroads to make and keep open and in repair ditches, drains, sewers and culverts along and under their railroad tracks, so that filthy or stagnant pools of water cannot stand on their grounds or right of way, and so that the natural drainage of adjacent property shall not be impeded.

The council is authorized to appoint a board of health and prescribe its duties, and in all that relates to public health, the jurisdiction of the council extends a half mile beyond the city limits on all sides.

Article 9 of the same chapter gives the corporate authorities power to make local improvements by special assessments or special taxation, or both, of contiguous property or by general taxation or otherwise as they shall by ordinance prescribe. The construction or repair of sidewalks may be treated as a local improvement. In all such proceedings, the council files what is called a petition in a court of record of the county, stating the character of the work contemplated, its probable cost as estimated by a committee of the council, and other facts. Provision is made for ascertaining by means of a jury the cost of any property to be taken for such improvements, and the court appoints three commissioners who examine the locality where the improvements are to be made, and the lots, blocks and parcels of land that will be specially benefited thereby, and "estimate what proportion of the whole cost of such improvement will be of benefit to the public, and what proportion thereof will be of benefit to the property to be benefited, and apportion the same between the city and such property . . . and assess the amount so found to be of benefit to the property upon the several lots, blocks, tracts or parcels of land in the proportion in which they will be severally benefited." Any person interested may appeal from the decision of the commissioners to the court, and such appeal is tried before a jury. Power is given to the court to modify, alter, change, annul or confirm the assessment. Many other provisions are made to secure the doing of justice in such cases, and the proceedings may consequently be very tedious and expensive.

The city council is also authorized to provide for a supply of water by any or all of the usual means, and to borrow money for such purpose; to make all needful regulations for the use of such water and for levying and collecting any water taxes, rents, rates or assessments, the council may think necessary; or to authorize any person or private corporation, to construct and maintain the same at such rates as may be fixed by ordinance for any period not exceeding thirty years.

A city may acquire by purchase or otherwise, or establish and maintain bridges and ferries within the city, or at any point within five miles of the corporate limits, and regulate the use thereof. A city may annex any contiguous territory, on petition of not less than three-fourths of the legal voters, or territory may be disconnected in like manner, and subject to certain conditions, and any incorporated city, village or town may be annexed to another by ordinance, passed by a two-thirds of all the aldermen elect of each of the corporations desiring annexation. Corporations may make arrangements with one another for the use of sewers, and may lease landings and levees. For such side-walks as are deemed necessary, and as are not laid under the local improvements system, the council may require the owners of adjacent property to pay in whole or in part according to the value of their property, or according to frontage.

The councils are of course authorized to acquire, hold and manage such property, and erect such buildings as may be necessary for the public convenience; to levy and collect taxes to the extent required by the public service, and to raise loans by the issue of bonds; but they are forbidden to incur debt in addition to the debts existing, when the constitution was adopted, to a greater extent than five per cent of the taxable property of the city as ascertained by the last state and county assessment. It is also provided,* that exclusive of the amount levied for the payment of bonded indebtedness or the interest thereon, "the aggregate amount of taxes levied for one year, shall not exceed the rate of two per cent. upon the aggregate valuation of all properties within the city, subject to taxation."

The council are required† to pass within the first quarter of the fiscal year, an ordinance termed the annual appropriation bill, in which they may appropriate such sum or sums as may be deemed necessary to defray all necessary expenses and liabilities of the corporation. The objects and purposes for which the appropriations are made, must be specified and the amount appropriated for each. No farther appropriation can be made within the year, unless it has been first sanctioned by a majority of the legal voters of the city by petition signed by them, or at a general or special election called therefor. It is provided however,‡ that the city council may by a two-thirds vote, order any improvements, the necessity for which is caused by any casualty or accident happening

* Sec. 111.

† Chap. 24, Sec. 80.

‡ Chap. 24, Sec. 90.

after the annual appropriation has been made, and the council may order the mayor to borrow for a space of time, not exceeding the close of the next fiscal year, such sum as may be necessary to make such improvement thus rendered necessary; the amount to be raised in the next general tax levy, and to be embraced therein. It is also provided that no council or committee thereof, shall enter into any contract or incur any expense even though ordered by the council, unless an appropriation shall previously have been made concerning such expense.

The council is empowered* to levy and collect a tax on all the real and personal property not exceeding one mill on the dollar assessed value for the laying, extension and maintenance of sewers, and a similar tax of one mill on the dollar for the extension and maintenance of the water-works if the revenue from such work prove insufficient.

When property is destroyed in whole or in part by fire, the authorities named may "rebathe or remit so much of the taxes levied upon such property, as in their opinion should be remitted," and in case of an extensive fire seriously impairing the ability of the property owners to pay taxes or special assessments, the council may "reduce the appropriations ordered or reduce, or repeal any part of the appropriation bill, or order the suspension of local improvements if the taxes or assessments have not yet been collected."

Provision is made for raising and managing a police and fireman's relief fund, made up of one-fourth of all rates, taxes and license fees paid by fire insurance companies not incorporated under the laws of the state, and doing business in any city, and of certain fines. The tax on foreign insurance companies may be as much as two per cent. of the net receipts of their local agency.

City Officials.

Wherever municipal matters are badly managed, complaint is made much more frequently of administrative and executive mismanagement, than of improper legislation, and in all those American cities in which attempts to improve the municipal system have been made, attention has been directed chiefly to the reconstruction of the executive. In some cases it has been thought important to change also the mode of electing the members of the civic council. The Illinois law respecting the government of cities and villages, provides that biennially at the general city election, a mayor, city clerk, city attorney and city treasurer shall be elected, and that no person shall be elected to the office of city treasurer for two years in succession.† If a vacancy occur in the office of mayor and the unexpired term be over a year, it shall be filled by an election; but if the unexpired term be less than a year, then the city council elect one of their own number to act as mayor for such term.

"The city council may in its discretion from time to time by ordinance, passed by a vote of two-thirds of all the aldermen elected, provide for the election by the legal voters of the city, or the appointment by the mayor with the approval of the city council of a city collector, a city marshal, a city superintendent of streets, a corporation counsel, a city comptroller or any or either of them, and such other officers as may by said council be deemed necessary or expedient." The council may by ordinance or resolution to take effect at the end of the year, discontinue any of the offices so created, and devolve the duties thereof on any other city officer.‡ The next section provides, that "all officers of any city except where herein otherwise provided, shall be appointed by the mayor, and vacancies in all offices except the mayor and aldermen shall be filled by like appointment;" by and with the advice and consent of the city council. The city council may by ordinance not inconsistent with the provisions of this Act, prescribe the duties, and define the powers of all such officers, together with the term of any such office, provided the term shall not exceed two years."

These sections give the mayor the sole right to nominate all the officers of the council except those elected annually by the people, but it still leaves more control over the executive officers to the council than is left to that body by the laws more recently passed to reform the municipal government in Philadelphia, Brooklyn, Boston, and other cities.

*Chap. 24, Sec. 262.

†R. S., Ch. 24, Sec. 49.

‡R. S., Chap. 24, Sec. 73.

Besides presiding at the meetings of the city council, suggesting to the council, in his message, what he may think proper, and vetoing such ordinances as he may disapprove of, the mayor has the power to remove any officer appointed by him on a formal charge, when he thinks that the interests of the city demand such removal; but he is required to report the reason of such removal at a meeting of the council, to be held not less than five nor more ten days after, and if the council, by a two-thirds vote of all its members legally elected, disapprove of such removal, the officer shall be restored to office, and shall not be removed a second time for the same offence. The council are empowered to pass ordinances for the suppression of riots and tumults, and the mayor may exercise, within the city limits, the powers conferred upon sheriffs to suppress disorder and keep the peace; he has the power, when necessary, to call on every male inhabitant of the city over the age of eighteen years, to aid in enforcing the laws and ordinances, and to call out the militia to aid in suppressing riots and other disorderly conduct, or carrying into effect any law or ordinance, subject to the authority of the Governor as commander in chief of the militia. He may release any person imprisoned for violation of any city ordinance, and report the cause of his so doing to the council at its next session. He has the power at all times to examine and inspect the books, records and papers of any agent, employe or officer of the city; and it is enacted that he shall perform all such duties as are or may be prescribed by law or by the city ordinances, and he shall take care that the laws and ordinances are faithfully executed."

It is enacted that the city marshal shall perform such duties as shall be prescribed by the city council for the preservation of the public peace, and the observance and enforcement of the ordinances and laws; and he shall possess the power and authority of a constable at common law, and under the statutes of the state." The marshal, his deputies, policemen and watchmen are, by another section, made conservators of the peace and clothed with all needful powers.

The city clerk keeps the corporate seal and all papers belonging to the city, attends all meetings of the council, and makes a full record of all its proceedings, records all ordinances, and performs the other duties usually discharged by such functionary.

The collector receives all warrants for the collection of taxes, and collects such taxes, and keeps such books as the council prescribes; and his books and papers are open at all times to the inspection of the mayor, city clerk and members of the council. He pays the money collected by him over to the treasurer weekly, or oftener if required by the council. He makes a report in writing to the council, as often as they require, of all moneys received and paid to the treasurer by him, or of any other matter connected with his office, and annually, between the first and tenth of April, files with the clerk a statement in detail of all the moneys received by him on the several warrants and assessments, and the sums that remain uncollected.

The city treasurer receives all money belonging to the corporation and keeps his books and accounts as prescribed by ordinance, but he must keep a separate account of each fund or appropriation, and the debts and credits belonging thereto. He keeps the money of the city on deposit in the bank or place of deposit designated by ordinance. He pays all warrants drawn upon him by the mayor and countersigned by the clerk, stating the fund or appropriation to which the same is chargeable, and the person to whom it is payable. He holds all money paid on a special assessment as a special fund. He renders to the council every month, and oftener if required, a statement showing what sums have been paid and received during the month, and the state of the treasury. This must be accompanied by vouchers. He is required to make out annually a full statement in detail of all the transactions of his office during the year, and this the clerk must cause to be published in one of the newspapers of the city. The books, accounts and papers of the treasurer are open at all times to the examination of the mayor, the clerk and the members of the council.

In all the cities of the United States, whose government has been reformed by recent legislation, the office of comptroller is of great importance, and to enable him to discharge his duties satisfactorily it is thought necessary that he should be practically quite independent. The Illinois General Act leaves it to the city council to determine whether

there shall be a comptroller, and when a comptroller is appointed makes him too much dependent on the council. If no comptroller is appointed, the city clerk is required to discharge several of the duties which properly belong to the comptroller's office. In such case the clerk must countersign all warrants on the treasurer; to the clerk must be sent the annual accounts of the treasurer, and by the clerk these must be published, the clerk is authorised and expected, if not required, to examine the accounts of the collector and of the treasurer frequently. If a comptroller is appointed, these and other financial duties are performed by him, and all accounts must, therefore, be audited before they are paid. The Act says, furthermore :*

"The city comptroller (if there shall be a comptroller appointed, if not, then the clerk) shall exercise a general supervision over all the officers of the corporation charged in any manner with the receipt, collection or disbursement of corporation revenues, and the collection and return of all such revenues into the treasury. He shall have the charge, custody and control of all deeds, leases, warrants, vouchers, books and papers of any kind, the custody and control of which is not herein given to any other officers; and he shall, on or before the fifteenth day of May in each year, and before the annual appropriations to be made by the council, submit to the city council a report of his estimates, as nearly as may be, of moneys necessary to defray the expenses of the corporation during the current fiscal year. He shall, in said report, classify the different objects and branches of expenditure, giving, as nearly as may be, the amount required for each, and for the purpose of making such report he is authorised to require of all officers their statement of the condition and expenses of their respective offices or departments, with any proposed improvement and the probable expenses thereof, all contracts made and unfinished, and the amount of any and all unexpended appropriations of the preceding year. He shall in such report state the aggregate income of the preceding fiscal year from all sources, the amount of liabilities outstanding upon which interest is to be paid, the bonds and debts payable during the year, when due and when payable. And in such report he shall give to the council such other information as he may deem necessary to the end, that the council may fully understand the money exigencies and the demands upon the corporation for the current year."

It is further provided, respecting the comptroller,† "that when he is appointed the council may by ordinance or resolution confer upon him such powers and provide for the performance of such duties by him as they may think necessary and proper." The comptroller is also to keep a correct list of all outstanding bonds of the city.

The council is authorized‡ to require all officers connected with the receipt and expenditure of money to perform such other duties and be subject to such other rules as the council may, from time to time, provide and establish. And in the adjustment of accounts between the collector or treasurer and the comptroller (or clerk), there is an appeal to the finance committee of the council, whose decision is binding unless the council otherwise direct.

The comptroller (if there is one), the clerk, treasurer and collector, appoint such clerks and subordinates in their departments as the city council authorise, and are held responsible for the fidelity of all persons appointed by them.

In some cities, the officer who has charge of the streets, sewers and other city works holds a position of great importance. The Illinois General Act provides that the city council may provide for the election of a superintendent of streets at the general annual election, or for the appointment of such an officer by the council on the nomination of the mayor, but it does not define his powers and duties. That seems to be left entirely to the council, and, therefore, this office is of secondary importance, and the person who fills it can do little to prevent waste, extravagance or corruption. Mention is sometimes made of a board of public works "when it exists," but this seems to be little else than a committee of the council. The council is empowered to determine by ordinance what the compensation of the mayor shall be. All other officers of the city may receive a salary, fees or other compensation, to be fixed by ordinance, and after the same has been fixed it shall not be increased or diminished during the term for which

*Sec. 104.

†Sec. 105.

‡Sec. 107.

any officer has been elected or appointed. Those who are paid by fees are required to make a semi-annual return, verified by affidavit, to the mayor of all fees and emoluments received by them. Each alderman may receive such compensation as is fixed by ordinance, not exceeding three dollars for each meeting actually attended by him. He receives no compensation for any other services.

Every city is authorized to elect at the general annual elections one police magistrate, to hold office for four years.

It is provided* that "in case the mayor or any other municipal officer shall at any time be guilty of a palpable omission of duty, or shall wilfully or corruptly be guilty of oppression, malconduct or misfeasance in the discharge of the duties of his office, he shall be liable to indictment in any court of competent jurisdiction, and on conviction, shall be fined in a sum not exceeding \$1,000, and the court in which such conviction shall be had, shall enter an order removing such officer from office."

A village elects six trustees who hold office for two years, one-half being elected each year. The six trustees elect one of themselves chairman, who exercises the power conferred on the mayor of a city not exceeding five thousand inhabitants. The trustees have all the powers of aldermen in cities, and the president and board may exercise the same powers as are conferred upon the mayor and council of a city not exceeding five thousand inhabitants, and pass ordinances in like manner. The board of trustees may appoint a treasurer, one or more street commissioners, a village constable and such other officers as may be necessary. The clerk of the village is elected at the same time as the trustees, and when a police magistrate, to hold office for four years, is elected, it is at the general annual election. In the United States each state raises by direct taxation the amount required for all state purposes. This renders union of action between state, county and city or village desirable. In Illinois the general municipal Act provides that, when the council of a city or village has ascertained and determined how much money is required for the service of the year, it shall, by an ordinance in which the particulars are set forth, "levy the amount upon all property subject to taxation within the city or village as the same is assessed and equalized for state and county purposes for the current year." A certified copy of such ordinance is filed with the county clerk. He ascertains the rate per cent. which, upon the total valuation of the property, subject to taxation within the city or village as the same is assessed and equalized for state and county purposes, will produce a net amount not less than the amount so directed to be levied and extends such tax in a separate column upon the book or books of the collectors of state and county taxes. By these such taxes are collected and paid over to the treasurer of the city or village. It is not easy to ascertain why provision is made for the appointment of a city collector unless there are other sources of revenue besides the taxes.

Assessment.

Chapter 120 of the revised statutes provides in 306 sections how the assessments shall be made for state and other purposes.

The properties made subject to taxation under that Act are :

All real and personal property in the state.

All moneys, credits, bonds or stocks and other investments, the shares of stock of incorporated companies and associations, and all other personal property, including property *in transitu* to or from this state, used, held, owned or controlled by persons residing in the state.

The capital stock of companies and associations incorporated under the laws of this state.

The exemptions includes all church property used exclusively for public worship, all cemeteries, all charitable institutions, all property used for school purposes, all educational and philanthropic institutions, all property belonging to the United States, the state, the county, city or village, and used for markets, engine houses, city halls and other purposes ; all property used exclusively for agricultural, horticultural, mechanical and philosophical purposes and not for pecuniary profits.

*Sec. 27.

The law provides that all personal property, every credit for a sum certain, annuities and royalties, the capital stock of all companies shall be assessed at their fair cash value, and defines the manner in which the value of bank stocks is to be determined. It states also how real estate is to be valued. Each lot is to be valued at the price which it would bring at a fair voluntary sale for cash. Taxable leasehold estates are to be valued on the same principle, and if there is a mine or quarry on any piece of property due account should be taken of this in the valuation.

Every person of full age and sound mind is required, when called on by the assessor between the first day of May and the first of July in each year, to list, that is to state in writing in the form prescribed, "all his moneys, credits, bonds of stocks, shares of stock of joint stock or other companies (when the capital stock of such company is not assessed in the state) moneys loaned or invested, annuities, franchises, royalties and other personal property; and also all property of the same descriptions controlled by him as the agent or attorney of any other person or of any company, and all money deposited to his credit or subject to his draft or order, and credits due from any person or body corporate. The Act prescribes how the properties of minors, lunatics, wives of those for whom properties are held in trust, of corporations whose assets are in the hands of receivers, of solvent corporations, of firms, of manufacturing associations and others whose affairs are managed by an agent shall be listed. It also prescribes where the several kinds of property are to be listed. Where any doubt arises the place of listing is fixed by the county board.

The 24th section is important. It provides that "persons required to list personal property shall make out under oath, and shall deliver to the assessor at the time required, a schedule of the numbers, amount, quantity and quality of all personal property in their possession or under their control required to be listed for taxation by them, and the assessor may examine them under oath as to each of these statements so made. It shall be the duty of the assessor to fix the fair cash value of all items of personal property, including all grain on hand, on the first day of May . . . and the assessor is authorised to administer the oath required in this section; and if any person shall refuse to make such schedule under oath, then the assessor shall list the property of such person according to his best judgment and information, and shall add to the valuation of such list an amount equal to fifty per cent. of such valuation, and if any person making such schedule shall swear falsely he shall be guilty of perjury and punished accordingly. Any person required to list personal property who shall refuse, neglect or fail when requested by the proper assessor to do so, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding \$200, and the several assessors shall report any such refusals to the county attorney whose duty it is hereby made to prosecute the same." The Act provides that the schedule shall truly set forth the quantity, number and value of the several descriptions of personal property as described in thirty-six clauses. The number of horses of all ages, the number of cattle of all ages, the number of mules and asses of all ages, the number of sheep of all ages, the number of hogs of all ages and the values thereof are set forth in separate columns; so are the number of carriages and wagons, their description and value, the number of watches and clocks, the number of sewing or knitting machines, of melodeons, organs and pianofortes, plate and plated ware, diamonds and jewelry, agricultural tools and implements, household and office furniture and the value thereof, as well as the value of stocks in trade, of machinery, of bonds and other property of greater value. The person filling the schedule is required to state all his credits and from these credits he is entitled to deduct all the *bona fide* debts he owes, but he cannot make deduction on account of his debts from any item other than his credits, and the right to deduct debts in any way does not extend to banks or to a company or corporation exercising banking powers. Several sections describe the manner in which the property and business of banks, bankers, brokers and stock jobbers, the capital stock of corporations and the franchises of persons, the property of railroads and of telegraph companies are to be listed and valued; how state and national banks are to be assessed and taxed, and how they are to be listed as between counties and between towns, when more than one county or one town are interested. Any person refusing to deliver a list to the assessor or giving a fraudulent list is liable to a penalty of not less than \$10

or more than \$2,000 and to a prosecution for perjury, if having been required to make oath to the accuracy of list or schedule he has taken such oath and the list is found to be fraudulent. The county clerk is required to make up for the several towns (townships) in counties under township organization and for the several districts in other counties the lists of lands and lots to be assessed, the amount to be paid for each and the amount to be paid to the town and to the county collector. Separate books may be made for the collection of all taxes within the corporate limits of cities, towns and villages and for the collection of taxes on personal estates. In counties not under township organization the assessor is appointed by the county board. Sections 74-85 give additional directions as to the manner in which the assessors should discharge their duties. They re-value real estate every four years.

Appeal may be made from the valuation of the assessors to the board of equalization, which in counties under township organization is composed of the assessor, clerk, and supervisor in each town, and in other counties of the county board acting for the whole county, who meet at the times appointed by the statute. There is, in addition to this, a review or equalization by the state board, composed of one member from each congressional district, elected once every four years, and the state auditor. The county clerks are required to send to the state auditor, before the day named in each year, an abstract from the assessment books, showing all the particulars of the assessment, in each county. These statements, the auditor submits to the state board, which meets at the state capital on the second Tuesday of August. This board having examined the valuations, increase, or reduce the valuation in the several counties as they see fit, but so as not to reduce the aggregate or not to increase it more than one per cent. They also determine finally how the amount assessed on railroads and other property extending to more than one county shall be apportioned. They have special powers with regard to the assessment of the capital stock of corporations, and the assessment of railroad tracks and rolling stock. Clause 111 says: "Land shall be equalized by adding to the aggregate assessed value thereof, in every county in which the board may believe the valuation to be too low, such rate per centum as will raise the same to its proper proportionate value; and by deducting from the said aggregate value thereof, in every county in which the said board may believe the value to be too high, such per centum as will reduce the same to its proper value. Town and city lots shall be equalized in the same manner herein provided for equalizing lands and at the option of said board may be combined and equalized with lands." The action of the board is reported by the auditor to the county clerks, and the valuation as settled by this board, becomes the basis for the assessment of all state, county, city, and town taxation.

The constitution of the state provides that county authorities shall never assess taxes the aggregate of which shall exceed 75 cents per \$100 valuation, except for the payment of indebtedness existing when the constitution was adopted, but it sets no such limits to the taxation for state, town, city, or school purposes. The treasurers of counties under township organization, and the sheriffs in other counties, are *ex-officio* collectors of taxes in their several counties. Town and district collectors make returns to the county collector on or before a day named and make settlement with him. The sections which prescribe the duties of the collector, provide for the seizure and sale of lands and other property in case of default, and for settlement between county collectors, and county boards, and the state auditor, are very numerous.

This law, which resembles the assessment laws of several other states, as to the description of property to be assessed and the means of ascertaining what real or personal property liable to assessment, each person possesses, and its value seems sufficient to ensure that no property shall escape taxation, that no fraud shall be committed with impunity, and that no injustice shall be done. Yet there is reason to doubt whether, in its practical operation, it is perfectly satisfactory. The people of this province may not wish to submit to taxation on watches, trinkets, musical instruments, and implements of trade, but if the principle of taxing personal property is to be retained it may be well to consider whether the mode of ascertaining its character and value, which is prescribed by the laws of Illinois and other states would, if adopted here, do much to put an end to the under-valuations, which are not only monstrosly absurd in many instances, but work serious injustice to those who, when questioned by the assessor, make honest representations.

MICHIGAN.

In Michigan municipal institutions underwent further modifications, and the municipal system assumed a shape closely resembling that which exists in Ontario to-day. In 1813 Governor Hull appointed commissioners to supervise highways and bridges in the as yet unincorporated townships. In 1815, before a sign of local government was visible in the rural districts, Detroit was incorporated, and its people authorized in town meeting to levy taxes for such purposes as they saw fit. The same power was given to Prairie du Chien in 1821. In 1825, Congress gave power to the governor and council to incorporate townships and provide for the election of county and township officers. The powers of the county at first greatly exceeded those of the town, which could appropriate money only for a few petty purposes. The power of raising money for schools was the most important conferred on the townships for some time. But the first settlers were chiefly from New England and New York, and their influence was felt after a time in the increased authority of the towns. From 1813 to 1831 Governor Cass, himself brought up under the New England system, did much to promote the introduction and development of that system in the state by abandoning the system of appointing county and township officers, and requiring the people to elect them. He was of opinion that in proportion as government recedes from the people, it becomes liable to abuse, "and that whatever authority can be conveniently exercised in primary assemblies may be deposited there with safety." The first constitution adopted in 1837 gave the governor power to remove county and township officers if he thought them incompetent, but this he no longer possesses. "Michigan was the first state in the west to adopt the town meeting. She has been followed in this by Wisconsin, Minnesota and Illinois . . . Ohio, Indiana and Illinois . . . adopted a compromise system similar, in many respects, to that of Pennsylvania." The town meeting has much larger powers in Michigan than in some other states, but smaller than in New England, because in Michigan the system of incorporating villages renders it unnecessary that the power of the town meeting should be so extensive. The constitution of the township board is peculiar. The county board, composed of the supervisors of the towns, is considered too large by many of those who of late have made municipal government a special study, because there is little personal responsibility, and matters of local concern are controlled by combinations on the board.

The constitution of Michigan, adopted in 1850, provides that the Legislature may confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties such powers of a local legislative and administrative character as it may deem proper.* The constitution also provides** that "the legislature may organize any city into a separate county when it has attained a population of twenty thousand inhabitants without reference to geographical extent, when a majority of the electors of the county in which such city may be situated voting thereon shall be in favour of a separate organization," that † "a board of supervisors consisting of one from each organized township shall be established in each county, with such powers as shall be prescribed by law," and that ‡ cities shall have such representation on the board of supervisors of the counties in which they are situate as the Legislature may direct. The powers of the board of supervisors are prescribed by sections nine, ten and eleven of the same article as follows: "The board of supervisors may borrow or raise by tax one thousand dollars for constructing or repairing public buildings, or highways or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year unless authorized by a majority of the electors of such county voting thereon. The boards of supervisors, or in the county of Wayne, the board of county auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for and to adjust all claims against their respective counties; and the sum so fixed or defined shall be subject to no appeal. The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships under such restrictions and limitations as may be prescribed by law." Article eleven relates to townships, and provides that "there shall be elected annually in each township

*Article 4, sec. 38.

**Article 10, sec. 2.

†Art. 10 sec. 6

‡Art. 10, sec. 7.

one supervisor, one township clerk, who shall be *ex officio* school inspectors, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district," whose powers and duties shall be prescribed by law. Each organized township shall be a body corporate with such powers and immunities as shall be prescribed by law." Article 15, sec. 13 says: "The Legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, bonusing money, contracting debts and lowering their credit." Section 14 of the same article says: "Judicial officers of cities and villages shall be elected and all other officers shall be elected or appointed at such time and in such manner as the legislature may direct."

Towns.

In Michigan the electors of a township in town meeting assembled, have and exercise powers similar to those exercised by the town meeting in Massachusetts. At the annual meeting held on the first Monday of April, at the place appointed by the previous meeting, and organized in the usual way, one supervisor, one township clerk, one treasurer, one school inspector, one commissioner of highways, so many justices of the peace as there are by law to be elected, and so many constables as shall be ordered by the meeting, not exceeding four in number, are elected by ballot, and afterwards one overseer of highways for each road district, and as many pound masters as the meeting may determine, are chosen *visa voce*, or in such manner as the meeting may direct. The persons so elected hold office for one year, except the justices who hold office for four years, and the school inspector who holds office for two years. After the elections the other business is done. Any amendments of the by-laws that seem necessary are usually made at the annual meeting, the amounts to be raised by taxation for all purposes authorized by law are determined, and the necessary taxation is ordered. Should it be necessary for the purpose of doing this business, the annual meeting may be adjourned from day to day. Any of these powers may be exercised at a special meeting, but a special meeting can only transact the business for which it has been specially called. The legislative powers of the town meeting as described in section 673 are to make all such orders and by-laws for determining the time and manner in which cattle, horses, swine, sheep and other animals shall be restrained from going at large in the highways, and for directing and managing the prudential affairs of the township as they shall judge most conducive to the peace, welfare and good order thereof; and they may annex to such by-laws suitable penalties for the breach thereof not exceeding ten dollars in any one case. The extent of the powers given by the clause we have quoted seems doubtful. The accounts of the township treasurer and the report and account of the commissioner of highways are submitted to the annual meeting through the township board. The account of the commissioner shows in detail all the work done, money expended, and assessed labour performed on the highways during the year, the amount received in commutation of assessed labour and for "delinquencies." An estimate of the amount of highway tax which should be assessed upon the taxable property for the next year not exceeding one half day's labour, nor less than one-tenth day's labour upon each \$100 of valuation accompanies the account; also a statement of the improvements necessary to be made in the highways and bridges during the year and the amount of money tax that should be levied for the purpose, beyond what such estimated highway labour will accomplish, not exceeding fifty cents upon each \$100 valuation, or in townships whose aggregate valuation is less than \$50,000, not exceeding a gross sum of \$250. The meeting determine by the vote of the majority of those present what amount of highway labour shall be assessed and what amount of money tax within the limit stated. The people in township meeting may also grant and vote any sum of money not exceeding one per cent. in any one year upon the assessed valuation of the taxable real and personal property . . . for the purpose of erecting a town hall or other building or buildings required for the use of the inhabitants in whole or in part for township purposes, provided that notice of intention to move for such a vote, signed by at least twelve freeholders of the township, has been posted up in five of the most public places at least ten days previous to the day of such meeting.

The powers exercised by the people directly in town meeting are not as extensive as those exercised by the town meeting of Massachusetts, nor is their decision final in all the matters on which they have a right to vote. If they neglect or refuse at the annual meeting to vote that any rate of highway labour be assessed, the highway commissioner may nevertheless make an assessment not exceeding one-half day's labour upon each \$100 of valuation; and if they neglect or refuse to vote such sum or sums of money as may be necessary to defray the ordinary township expenses the township board are authorized to vote such sums as may be necessary for such purposes not exceeding the amount limited by law.

The township board have not executive powers as extensive as those of the board of selectmen in the towns of Massachusetts, but they do more in their representative character, and their power to levy rates to defray township expenses when the town meeting has neglected or refused to make provision for them is a power not given to the selectmen. The town board is composed of the supervisor, the two justices of the peace whose office will soonest expire, and the township clerk. When a quorum does not attend any meeting of the board, one of the remaining justices may attend on being notified by any of the members, and he has for the time the same authority as the other members. The board meet annually to audit and settle all claims against the township, to examine, audit and settle the accounts of the township treasurer and all other township officers—to examine the accounts of the highway commissioner and receive his report and estimates. All these accounts they produce at the annual town meeting. The town board as board of health, have large powers. In Massachusetts the treasurer and other town officers render their accounts directly to the town meeting. It is also the duty of the town board to cause the provisions for the protection and preservation of the town records to be enforced. When a vacancy occurs in any office except that of justice of the peace or township treasurer, or the incumbent is unable to perform the duty, the township board may make temporary appointments of suitable persons to discharge the duties of such offices, and when the treasurer elected refuses to serve or vacates his office, or is disabled by sickness, the board appoint a treasurer for the remainder of the year.

The supervisor is the agent of the township for the transaction of all legal business. By him suits are brought or defended. He prosecutes for all penalties and forfeitures incurred within the township. He is *ex-officio* the township assessor. He represents the township on the county board and lays before it such copies of entries concerning moneys voted to be raised in the township as are delivered to him by the clerk. He is *ex-officio* the registrar of births and deaths, and for the work this entails he is paid by fees.

The remuneration of the members of the township board, the board of health, the board of registration of electors, the inspectors of elections, the clerks of the poll, the commissioners of highways, the town clerk and the school inspector, is \$1.50 for each day actually devoted to the public service in any of these capacities.

The general law of the State of Michigan, passed under the authority given by the constitution, prescribes how villages whose population has increased to 3,000 or more may become organized as cities, how cities and villages previously incorporated by special charters and villages incorporated under the general laws of the State may be re-incorporated under the provisions of the general Act, and how territory adjacent to any city incorporated under this Act may be annexed to it if the inhabitants residing upon such territory and the electors of the city so choose. It provides that existing ward divisions shall be maintained, that cities containing 3,000 inhabitants and less than 10,000 if not previously divided, shall be divided into two wards for 3,000, and an additional ward for every additional 2,000, and that in cities above 10,000 there shall be one additional ward for each additional 4,000.

Cities.

Cities incorporated under this Act, elect a mayor, a city marshal, a clerk, a treasurer, a collector and a street commissioner, three school inspectors and four justices of the peace; and in cities having but three wards, two aldermen, designated aldermen at large, are elected by the qualified voters of the whole city. In cities having a population of not less than 12,000 inhabitants, the council may provide by ordinance for the election of a

city comptroller.* In each ward a supervisor, two aldermen and a constable are elected. The Act provides that a city attorney, city surveyor, engineer of the fire department and three school inspectors shall be appointed by the council and such other officers as they may deem necessary. The mayor, city marshal, city clerk, city treasurer, city collector, street commissioner, supervisors and constables are elected for one year, the justices of the peace for four years and inspectors of schools for three years, one being elected each year. Aldermen are elected for two years, one-half going out of office every year. Where a comptroller is elected, he holds office for two years. All officers appointed by the mayor or council, except school inspectors and those appointed to fill vacancies in elective offices, hold office for one year. As in other states, the electors are those qualified to vote at state elections, who have resided in the city for the time specified. Each elector votes in the ward in which he resides.

The powers of the city councils under this Act are to restrain and prevent vice and immorality, gambling, noise and disturbance; indecent or disorderly conduct or assemblages; to prevent and quell riots; to preserve peace and good order; to protect property; to apprehend and punish vagrants; to abate nuisances; to prohibit or remove anything tending to cause or promote disease; to suppress disorderly houses and gaming houses; to regulate billiard tables and other such places of amusement; to regulate or prohibit and suppress ale, beer, and porter houses; to regulate or prohibit shows and exhibitions; to prevent violations of the Sabbath; to regulate auctions; license peddlers; establish and regulate ferries; license taverns and saloons; license and regulate all vehicles used in transportation of persons or property for hire; to license and regulate toll bridges; to provide for the inspection of meat and provisions; for the inspection weighing and measuring of coal, wood, hay, and other articles of merchandize; to provide for the inspection and sealing of weights, and to enforce the keeping and use of proper weights and measures by vendors; to regulate the construction, repair and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters; to prevent obscenity; to regulate or prohibit bathing in rivers or ponds; to provide for the clearing of rivers, streams and ponds, and to prevent the depositing of any filth therein; to compel the owners of any offensive nauseous or unwholesome place or house, to clean or remove or abate the same; to regulate the construction of cellars, sinks, privies, and all such places, and to compel the owners to cleanse, relay, repair or fill up the same; to regulate the keeping, sale, and use of explosives; to prevent mock auctions and lotteries; to provide for the protection and care of paupers, and to provide for taking a census. The councils are empowered to prescribe the terms on which licenses shall be granted, and to exact payment of such sum as they may require for such licenses.

They are also empowered to prescribe the terms on which railroad companies may lay new tracks and operate their roads with steam locomotives in or across the public streets, and to prevent the laying of such tracks or the operating of such roads except upon such terms and conditions.† They are also empowered to provide for and change the location and grade of street crossings of any railroad; to compel any railroad company to raise or lower their track so as to conform to street grades which may be established by the city from time to time, and to construct street crossings in such manner, and with such protection to persons crossing thereat as the council may require, and to keep them in repair; also, to require and compel railroad companies to keep flagmen or watchmen at all railroad crossings of streets, and give warning of the approach and passage of trains thereat, and to light such crossings during the night; to regulate and prescribe the speed of all locomotives and railroad trains within the city; . . . to require and compel any railroad company to make, keep open, and in repair, such ditches, drains, sewers and culverts along and under or across their railroad tracks as may be necessary. The councils also make regulations respecting partition fences.

For all those things the council may provide by ordinance, and they are empowered to enact such other ordinances not inconsistent with the laws of the state as they may deem necessary for the safety, order, and good government of the city.

In other chapters of this Act the councils of cities are empowered to establish a

* Title 15, cap. 5.

†Sec. 2559.

police force, to provide and maintain a city prison, to make provision for the protection of the public health, to acquire, hold, and own cemeteries, to establish pounds, to establish and control public wharves, to license and regulate ferries, to establish and regulate markets and erect market houses, to acquire, purchase or erect without the city limits, such public buildings as may be required for the use of the corporation, to procure grounds and erect such buildings and works as shall be necessary for city prisons, workhouses, hospitals, pest-houses, cemeteries, waterworks, and other purposes; to establish, construct and maintain sewers and drains, whenever and wherever necessary, the cost of main sewers constructed without regard to sewer districts to be paid out of the general sewer fund; such part of the cost of other sewers as the council may determine, not being less than one sixth to be paid out of the general fund, and the remainder to be "defrayed by special assessment upon all the taxable lands and premises included within the main or special sewer district in proportion to the estimated benefits accruing to each parcel respectively."

The powers as to the establishing, opening, making, extending, repairing, cleaning and lighting of streets given by this Act, are similar to those usually given to city councils, but it is provided,† that when the city council makes a new street, or extends, or widens a street, "the expense of such improvements, except the amounts paid for private property taken for public streets, may be raised by special assessments upon the property adjacent to or benefited by such improvement, in the manner in this Act provided for levying special assessments, or in the discretion of the council, a portion of such cost and expenses may be paid by special assessments, and the balance from the general street fund." So in regard to the cost of what are described as paving and improvements, another chapter ‡ provides that "such part of the expenses of improving any street, lane or alley, by grading, paving, planking, gravelling, curbing, or otherwise, and of repairing the same as the council shall determine, may be defrayed by special assessments upon lots and premises included in a special assessment district, to be constituted of the lands fronting upon that part of the street or alley to be improved," or of these and such other lands, as in the opinion of the council may be benefited by the improvements.

The council are expressly authorised to construct and maintain sidewalks, and are empowered to charge the expense thereof upon the lots and premises adjacent to and abutting upon such walks," or "to require the owners of lots and premises to construct and maintain sidewalks in the public streets, adjacent to and abutting upon such lots and premises, and to keep them in repair at all times, and to lay the same upon such lines and grades, and of such width, materials and manner of construction, and within such time as the council shall by ordinance or resolution prescribe." Ample power to enforce such ordinance is given.

Practically it is left entirely to the council to determine whether the cost of any work done on the streets shall be paid in whole or in part by the abutting and adjacent properties. Chapter 25, section 2642, provides that the cost and expense of the following improvements, including the necessary lands therefor, viz., of city hall and other public buildings and offices for the use of the city officers, engine houses and structures for the fire department, for waterworks, market houses and spaces, cemeteries and parks, watchhouses, city prisons and workhouses, lands appropriated for streets, and rights of way, and public wharves and landings upon navigable waters, levels and embankments, shall be paid from the proper general funds of the city. All the expenditure for streets, sidewalks, curbing, crossings and sewers, may be charged in whole or in part to the adjacent property according to frontage, or according to benefits, the only restrictions being that unless a majority of the persons to be assessed shall petition therefore, no such improvement or work shall be ordered except by the concurrence of two-thirds of the aldermen elect;" that when it is proposed to do any work, or make any improvement, other than the making or repairing of sidewalks, the expense of which is to be defrayed in whole or in part by the adjacent properties, plans and estimates must be prepared and filed in the office of the city clerk, and public notice must be given for

†Sec. 2622.

‡Sec. 2629.

at least two weeks ; and that, as is provided in section 2646 : " In no case shall the whole amount to be levied by special assessment upon any lot or premises for any one improvement exceed twenty-five per cent of the value of such lot or land as valued and assessed for state and county taxation in the last preceding ward tax roll. Any cost exceeding that per cent., which would otherwise be chargeable on such lot or premises, shall be paid from the general funds of the city." If any public building stands on a street to be improved on this principle, the share to which the property would be liable, if it belonged to private persons, is paid out of the general fund. The city surveyor, and two other freeholders appointed by the council, make the special assessments in such cases. Special assessments, which may be divided into five instalments, payable annually, become a lien on the property. The Act prescribes minutely how the assessment shall be made, and how payment may be enforced.

Sections 2672-2692 prescribe how private property required for the public use may be acquired.

Chapter 26, sections 2693-2720, provides for the imposition of taxes. The taxes raised for general purposes are divided into eleven general funds, and moneys raised by taxation in special districts are divided into three different funds. The amount that may be raised in any one year by general tax upon the taxable real and personal property in the city, for the purpose of defraying the general expenses and liabilities, shall not exceed, in cities having a population not exceeding 6,000, one and one-fourth per cent. ; in cities having more than 6,000, but not exceeding 9,000, one and one-half per cent. ; in cities having more than 9,000, but not exceeding 14,000, one and three-fourths per cent., and in cities having more than 14,000, two per cent. But the council may also raise, in each street district for street purposes, a sum not exceeding one-fourth of one per cent., and in sewer districts and special assessment districts, for the purpose of special improvements, such sum, not exceeding five per cent. in one year, as they may deem necessary. They may also raise a further sum, not exceeding three mills on the dollar, to provide interest on the city debt, and a sinking fund ; and a tax not exceeding two dollars a year may be levied upon each lot drained by a private sewer leading into a public sewer.

It is the duty of the council to prepare, in the month of September of each year, a detailed estimate of all " the expenditures which will be required to be made from the general funds of the city, during the next fiscal year, for the payment of interest and debts to fall due, for lands to be acquired, buildings to be erected or repaired, bridges to be built, the making or improving of streets, sewers, and for all other purposes, and the amount necessary to meet any deficiencies of the current year. The council are required to pass an ordinance, to be termed the annual appropriation bill, in which they make provision for and appropriate the several amounts to be taken from the general funds, and the street district funds, and the amount required by the school board, and order the same to be raised by tax, stating in detail the sums required for the several purposes. After this appropriation bill has been passed, no further sum can be used, raised, or appropriated, nor can any liability be incurred for any purpose during the fiscal year, " unless the proposition to make the appropriation shall be sanctioned by a majority vote of the electors voting upon the proposition at the next annual election ; " but the council may, without such authority, expend a sum not exceeding \$5,000 in any work or repair, the necessity for which is caused by casualty or accident after the annual appropriation is made. Other safeguards against lavish expenditure are provided. No work to be paid for out of the general fund shall be ordered, commenced, or contracted for, unless in pursuance of an appropriation specially made therefor in the last preceding annual appropriation bill, nor shall expense or liability on account of any work be incurred in excess of such appropriation, nor shall payment be made out of any fund for any purpose but that for which an appropriation from such fund was made in that bill. No public work shall be commenced or contracted for until a tax or assessment shall have been levied to pay the cost thereof, and no work shall be paid for except from the proceeds of the tax so levied. The council may raise part of the amount authorized by loan, provided the amount raised by tax, and that raised by loan, do not together exceed the amount for which a tax might have been levied.

Section 2712 further provides " should any greater amount be required in any year

for the purpose of erecting public buildings, or for the purchase of ground therefor, or for other public improvements or purposes, to be paid from the general funds of the city than can be raised by the council under the foregoing provisions of this chapter, such amount may be raised by tax or loan, or partly by tax and partly by loan, if authorized by a majority vote of the electors voting upon the question at an annual city election. The amount that may be voted or raised in any year, under the provisions of this section, shall not exceed two per cent. of the assessed valuation of the property in the city as shown by the last preceding tax rolls made therefor." Section 2716 provides that no warrant shall be drawn upon the treasurer after the fund from which it should be paid has been exhausted, nor when the liabilities outstanding and previously incurred and payable from such fund are sufficient to exhaust it. Should a warrant be drawn under such circumstances it would be void as against the city. Section 2717 provides that no loans shall be made by the council, or by its authority, in any year, exceeding the amounts prescribed in this Act. For any loans lawfully made the bonds of the city may be issued, bearing a legal rate of interest. Provision is also made respecting the amounts that may be expended or that may be levied in one year for local improvements.

A city is authorized "to borrow any sum of money to be used exclusively for the purpose of purchasing grounds, rights, privileges, materials, and in making improvements connected with, and for the sole purpose of supplying such city and the inhabitants thereof with water, provided that the sum borrowed in the first year shall not exceed ten per cent. of the assessed value of the property, and that no more than five per cent. of the value be borrowed in any one year thereafter." The council may appoint a commission to take the charge and management of such works in the manner and to the extent provided in the ordinances of the city. The term of at least one member of such commission must expire yearly. The council may fix the water rates, and regulate the manner of making connections, and the use of the water. A council may buy out the rights of a water company supplying water to the city, or make arrangements with a company to supply the city with water, if by resolution they declare that it is expedient to have works constructed for that purpose, but that it is inexpedient for the city, under the powers granted by its charter, or by this act, to build such works. Street railway companies, duly incorporated, may construct such railways in a city, with the consent of the corporate authorities given by an ordinance duly enacted, and under such rules, regulations, and conditions as in and by such ordinance or ordinances shall be prescribed, but any rights and privileges therein granted may not, after they have been accepted, be revoked.

City Officers.

The powers conferred on city councils by this act are large, and although several of the city officers are elected, only the mayor and comptroller possess any power that can serve as a check on maladministration. The mayor is described as the chief executive officer of the city. He presides at the meetings of council, and from time to time he may give the council information, and may recommend such measures as he deems expedient. In case of a tie he has the casting vote.* It is declared to be his duty to exercise supervision over the several departments of the city government, and to see that the laws relating to the city and the ordinances are enforced. He has the right at all times to examine the books and papers of any officer of the corporation. He may remove any officer appointed by him at any time, and may suspend any policeman for neglect of duty. He is conservator of the peace, and may exercise within the city such powers for the preservation of the peace as are conferred upon sheriffs in counties; but his chief power is that he may veto any ordinance. It does not appear that he may veto any item or items in an ordinance, and an ordinance vetoed by him may afterwards be enacted by a vote of two-thirds of all the aldermen elected. Parts of an ordinance, however, may be enacted after the veto. Section 2533 says: No ordinance shall be revived unless the whole, or so much as is intended to be revived, shall be re-enacted. When any section of an ordinance is amended the whole section as amended shall be re-enacted.

In the smaller cities, besides keeping a record of the proceedings of the Council, and

having custody of the seal and of all documents relating to city affairs the clerk acts as comptroller. In such cases the clerk and in others the comptroller is required to be the accountant of the city. All claims against the corporation must be filed with him for adjustment. After examination thereof he reports the same, with all accompanying vouchers and counter-claims of the city and the true balance as found by him to the council for allowance, and when a claim is allowed he draws his warrant upon the treasurer for the payment thereof, designating therein the fund from which payment is to be made, and takes a proper receipt therefor; but no warrant shall be drawn upon any fund after the same has been exhausted. When "any tax or money shall be levied, raised or appropriated, the clerk shall report the amount thereof to the city treasurer, stating the objects and funds for which it is levied, raised or appropriated, and the amounts thereof to be credited to each fund." He "shall exercise a general supervision over all officers charged in any manner, with the receipt, collection or disbursements of the city revenues and over all the property and assets of the city. He shall have charge of all books, vouchers and documents relating to the accounts, contracts, debts and revenues of the corporation. He shall countersign and register all bonds issued and keep a list of all property and effects belonging to the city, and of all its debts and liabilities. He shall keep a complete set of books exhibiting the financial condition of the corporation in all its departments, funds, resources and liabilities, with a proper classification thereof, and shewing the purpose for which each fund was raised. He shall also keep an account with the Treasurer, in which he shall charge him with all moneys received for each of the several funds of the city, and credit him with all warrants drawn thereon, keeping a separate account with each fund. When any fund has been exhausted he shall immediately inform the council thereof."

The council, however, are themselves the final board of audit.

Section 2718 requires that immediately upon the close of the fiscal year the council shall audit and settle the accounts of the city treasurer and other officers, and the accounts also as far as practicable of all persons having claims against the city, and make out a detailed account of all the taxes realized during the year and the amount raised for each fund, and all other receipts and all expenditures, classifying the expenditures for each purpose separately. The statement must also shew the amount and items of all indebtedness, and the rate of interest payable thereon, and the salary paid to each of the city officers, and contain such other information as may be necessary to a full understanding of all the financial concerns of the city. This statement, signed by the mayor and comptroller, or clerk, must be filed in the office of the city clerk and published in one of the newspapers of the city at least five days previous to the next annual election.

The city treasurer receives all money and credits the same to the various funds, pays all warrants properly drawn, and charges what he pays to the funds against which the warrants are drawn. He renders a monthly account to the comptroller of the transactions of the previous month, and once a year he renders a detailed account of the transactions of the year. He holds all bonds, mortgages, notes, leases and evidence of value belonging to the city.

The city marshal, although elected by the people, is subject to the direction of the mayor, and is required to make monthly reports to the council, who determine what the number of the police force shall be, how it shall be organized, and what remuneration the policemen shall receive. The city attorney is the legal adviser of the council, prosecutes for offences against the ordinances and does such other work as is generally done by such officers. The city surveyor acts entirely under direction of the council. The street commissioner, though elected, causes to be performed upon streets, sidewalks, alleys, bridges, reservoirs, drains, culverts, sewers and public grounds and parks such work as the council direct, and makes a monthly report under oath to the council. The supervisors are the assessors in the several wards, and they also prepare the jury lists and represent their wards at the County Board. The duties of collectors and constables are of the usual character.

The city attorney, city marshal, street commissioner, city surveyor and the engineer of the fire department have seats in the council, and may take part in all its proceedings and deliberations, on all subjects relating to their respective departments, subject to such

rules as the council from time to time prescribe, but without the right to vote, and they may be required to attend the meetings of council.*

Villages.

Any district of one square mile, if it contains three hundred inhabitants or more, may be incorporated as a village on application made to the county board in the way prescribed. In villages incorporated under the general act, a president, six trustees, a clerk, a treasurer, a street commissioner, an assessor and a constable are elected. The trustees hold office for two years and three are elected each year. The others hold office for one year. The president and trustees form the council. The president is chairman and votes when there is a tie. The council appoint a village marshal and engineer of the fire department. They may also appoint a village attorney, a village surveyor, one or more fire wardens, a pound master, such number of policemen and night watchmen as they deem expedient, and any other officers they think necessary "for the execution of the powers granted by this Act."

The president possesses all the powers given to mayors of cities by this Act, except that of vetoing ordinances when passed by the council. The Act provides † that as in cities no office shall be created or abolished, nor any tax or assessment be imposed, street, alley or public ground be vacated, real estate or any interest therein sold or disposed of, unless by a concurring vote of two-thirds of all the trustees elect. No money shall be appropriated except by ordinance or resolution of the council, nor shall any ordinance be passed, nor any resolution appropriating money be adopted, except by a concurring vote of two-thirds of all the trustees elect.

The president is *ex-officio* registrar of births, marriages and deaths, and he is also census commissioner.

The power of the village council is almost precisely the same as that of the councils of cities incorporated under the Act. The wording of the sections giving power as to the holding of property, the regulation of certain kinds of business, the establishment of markets and fences, the making of sidewalks, the establishment, construction, extension, altering and improving of streets and determining whether the cost of such improvements should be paid for in whole or in part out of the general funds or be assessed on the property abutting or adjacent, and whether according to frontage or to benefits; as to the construction of sewers, the construction of water-works and all other matters of municipal concern is almost exactly the same in both cases. So are the duties of the officers, and the words in which those duties are defined. The clerk, as in the smaller cities, acts as comptroller. The power of taxation is limited to $1\frac{1}{4}$ per cent. of the assessed value for general purposes, one-half per cent. for highways and one-fourth per cent. for cemetery purposes. A poll tax of one dollar a head may be levied. Three mills on the dollar may be levied to pay interest and sinking fund of debt. Rents for water and special taxes for drains and sewers may also be collected.

Counties.

The general Act declares (chap. 16) that "the boundaries of the several counties in this State shall remain as now established unless the same shall hereafter be changed by the Legislature." Provision is made for the government of unorganized counties and districts, for the organization of townships where the population has increased, for organizing counties previously unorganized for dividing a county into two and dividing the county property equally between them. The Act requires that "each organized county shall, at its own cost and expense, provide at the county seat thereof a suitable court house, a suitable and sufficient gaol, and fire-proof offices and all other necessary public buildings, and keep the same in repair."

The governing authority of the county is the board of supervisors, composed of one

*Sec. 2518.

†Sec. 2830.

supervisor from each of the townships and cities of the county, except the city of Detroit, which has a special charter and sends to the county board from each ward the alderman who has the shortest time to serve—13 in all ; the city of Monroe, which has one supervisor for each ward, and the city of Grand Rapids, which, according to the terms of this Act, was to have two supervisors. The board chooses one of its number to act as chairman. The county clerk acts as clerk of the board, keeps a record of the proceedings and files all accounts and discharges such other duties as the board requires. It is the duty of the board to examine the accounts of the county treasurer at least once a year, to provide or erect court house, gaol, county offices and poor house, and keep them in repair, but not to expend more than \$500 in repairs unless authorized by a vote of the electors. The board may purchase and hold such real estate as is necessary for county purposes, determine the site of any county buildings to be located, and may borrow such sums as may be necessary for these purposes, provided that no more than \$1,000 be borrowed or raised by tax in any one year for such purposes or for the construction and repair of highways and bridges, unless duly authorized by a majority of the electors voting on such question. Provision must be made for the payment of all loans within fifteen years from the time they are made. The board fix the compensation for all services rendered to the county, adjust all claims against it, provide for the raising of money to pay the current expenses, and authorize the making of a new tax roll, make such laws as they deem necessary for the destruction of wild beasts and of thistles and other noxious weeds. They may authorize any township to borrow or raise by tax (by a vote of the electors) any sum not exceeding \$1,000 for building or repairing any roads or bridges in which such township is interested, and if any road or bridge is situated partly in one township and partly in another, or on the line between townships, or if a township is interested in the construction or repair of a bridge in another township the board of supervisors may determine what proportion of the cost each should bear. In all that relates to the selection of sites for buildings and the expenditure of money, a vote of two-thirds of all the members elected is required. They may alter the boundary of townships when application has been duly made, and may by a two-thirds vote remove a county seat if a majority of the electors have voted in favour of such removal at an annual county meeting after due notice ; they have power to permit on proper terms when application has been duly made or to prohibit the erection of any dam or bridge over any navigable stream within the county, and to provide for the removal of any obstruction caused by the erection of booms or the collecting of rafts or logs in such streams, and to direct when the same shall be removed ; they are authorized and empowered to cause to be laid out, established, altered, discontinued or opened, all state and territorial roads, . . . whenever they may deem it for the interests of the public. They are to require the commissioners of highways of the several townships to furnish the minutes of the surveys to the township clerk and any person who thinks himself entitled to damages because of any proposed work may have them appraised as in the case of township roads. They are authorized to cancel and destroy all orders on the funds of the county that remain uncalled for and on file for the period of six years and upwards. They may employ surveyors to establish government section corners or quarter posts.

The county treasurer is elected at the general election, for the term of two years, and is declared incapable of holding the office longer than four, in any period of six years. His duties are defined. The judge of probate is elected at the general election, for four years, and he may appoint a probate registrar, when authorized by the board of supervisors. The county clerk, the sheriff, two coroners, a registrar of deeds, and county surveyors, are elected for two years, at the general annual county elections. In the county of Wayne three auditors are elected, one each year for a term of three years, and it is part of their duty "to ascertain and report to the board of supervisors, the amount of tax necessary to be raised therein" for county purposes.

The powers of the board of supervisors in a county of this state, are not as great in some respects as the powers of county commissioners, in some of the Eastern and Middle States, nor is the system of audit so thorough. They have, indeed, large discretionary powers, as to roads running partly in one township, and partly in another, and as to bridges connecting townships, and as to the extent to which the townships

should contribute to the cost of such works. But the act relating to highways and bridges*, shows that it is the policy of the state to entrust works of this kind, as far as possible to the township authorities. The people in town meeting assembled, after having received the reports of the highway commissioner, and other officers, determine what works shall be undertaken, what shall be done by statute labour, and what money taxes shall be imposed. They are empowered to exceed the limit of taxation to the extent of five mills on the dollar, if they think such additional tax necessary to keep the highways in proper repair, and if the electors refuse or neglect to make proper provision for such repairs, the town board and the commissioners are authorized to levy taxes for the purpose, within a certain limit.

Railroad companies are required, by the general railroad act†, not to obstruct any public highway or street, by cars or trains, for more than five minutes at any one time, and to construct suitable road and street crossings, for the passage of teams, by fitting down planks between and on each side of the rails of such road, the top of which shall be at least as high as the top of the rails of such road; and in case of the construction of such railway upon any public street, lane, alley, or highway, the same shall be on such terms and conditions as shall be agreed upon between the railroad company and the common council of any city, or the village board of any village, or the commissioners of highways, in any township in which the same may be. "The railway companies are required to keep proper signs at street crossings‡. Railroad companies are authorized to build or extend their track along any highway, not within the limits of a city or a village, if they "first obtain the written consent of the supervisor, and a majority of the commissioners of highways, of the town or towns in which such highway is located, the consent to set forth the conditions as to location, construction and operation that have been agreed upon.§ In the general highways' act it is provided|| that when any highway has been, (or shall be), established along any railroad, the company operating such railroad shall open, construct, and maintain such highway, and the necessary crossings therefor, across their right-of-way and track.

Taxation.

The general tax law as amended in 1882, provides that "all property within the jurisdiction of this State, not expressly exempted, shall be subject to taxation."

For the purpose of taxation, real property includes all lands within the State and all buildings and fixtures thereon and appurtenances thereto. Personal property includes all goods and chattels within the State; all ships, boats and vessels belonging to the inhabitants of the State whether at home or abroad and their appurtenances; all goods, chattels and effects belonging to inhabitants of the State situate without the State, except that property actually and permanently invested in business in another State; all indebtedness due to inhabitants of the State above the amounts respectively owed by them, whether such indebtedness is due from individuals or from corporations, public or private, and whether such debtors reside within or without the State; all shares in corporations organized under the laws of the State where the property of such corporation is not exempt or is not taxable to itself; all shares in any bank organized in the State under the law of the United States—but in estimating the value of such shares, deduction is made of the value of all real estate tax to the bank; all shares in foreign corporations, except national banks owned by inhabitants of the State; all moneys, all annuities and royalties, all interests owned by individuals in lands, the fee of which is in the State, or in the United States. Property exempt from taxation by the laws of the United States is not included. Shares in any corporation the property of which is taxable to itself, shall not be assessed to the shareholder. All corporate property except when some other provision is made by law is taxed to the corporation in its own name as to a natural person, and the place where its principal office is situate is deemed its place of residence. Corporations paying specific taxes are exempt (from other taxation) as to the property covered by such taxation, unless when otherwise provided by law. The real estate of insurance and other companies organized under the laws of the State is taxed and in

*Chapter 29.

†Sec. 3323.

‡Sec. 3375.

§Sec. 3520.

||Sec. 1322.

computing the value of the other property of such companies to be taxed the value of such real estate is deducted from the amount by which the assets exceed the liabilities. A copartnership is treated as an individual. The name of the firm is used, but each partner is liable for the whole tax. Real property which belonged to a person deceased, may be assessed to the heirs or devisees jointly if there is no executor or administrator. Personal property is assessed in the township in which the owner resides unless when the owner owns or occupies a "store, mill, place for sale of property, shop, office, mine, farm, storage, manufactory or warehouse (in another township) for use in connection with such goods and chattels." Shares in a bank are assessed to their owners in the town where the bank is located, but the shares owned by any person living in another part of the same county are assessed in the town in which he resides. Personal property of non-residents is assessed to the owner or the person having control thereof in the town where the same may be, but goods in transit may not be so taxed. The manner in which personal property belonging to minors, to the estate of deceased persons in the hands of executors or administrators or under the control of a trustee shall be taxed is prescribed.

The property exempt from taxation, is all public property belonging to the United States or to the State or to any county, city, village, township or school district, save lands purchased at tax sale and still held by the State; the personal property of all literary, benevolent, charitable and scientific institutions incorporated under the laws of the State and such real estate as is occupied by them for the purposes for which they were incorporated; all houses of public worship with the land on which they stand, the furniture therein and all rights in the pews, and also any parsonage owned by any religious society incorporated in the State and occupied as such; all lands used exclusively as burial grounds and the right of burial therein and the tombs and monuments therein while in use for that purpose, provided that the stock of any corporation owning such ground shall not be exempt, and that tombs and vaults kept for rent may be assessed as personal property.

Library and school books to the value of \$150; the personal wearing apparel of every individual; family pictures, furniture and utensils in use in any house to the value of \$200; musical instruments not exceeding in value \$150; any other personal property owned and used by any householder in connection with his house or business of the value of \$200; and the personal and real property of persons who, in the opinion of the supervisors, are by reason of poverty unable to contribute towards public charges, are also exempt.

The supervisor is authorized, and it is declared to be his duty, to ascertain as soon as possible after he has entered on the duties of his office, the taxable property of the township, and the persons to whom it should be assessed. For this purpose he may require every person of full age and sound mind, and the proper officers for every corporation to make in writing a full and detailed statement of all the taxable property of each person or corporation, whether owned by him or it, or held for the use of another. This statement must be made on a blank prepared by the auditor-general of the state, and sent to the supervisors through the county clerks; the supervisor may, in any case, add such questions as he thinks necessary. The statement must show any indebtedness which the person making it wishes to have deducted from his credits. The cashiers of banks are required to file with the county clerk, at the time appointed, statements shewing the value of the real estate of the banks, and a list of stockholders, shewing the amount of stock held by each, and his place of residence; and the county clerk thereupon furnishes to the supervisors of the several townships the names of such stockholders as reside in their several townships, and the amount of stock held by each. The description of real and personal property, as set forth in the Act, which each person is required to furnish, is embraced under sixteen heads, and includes all shares in banks and other corporations, all moneys, the value of plate, watches, jewellery, household furniture and musical instruments above the exemptions, domestic animals, carriages and other vehicles, machinery, agricultural implements, tools, ships, boats, vessels, logs, lumber, merchandize and stock in trade, and all other goods and chattels, as well those not liable as those that are liable to taxation. The supervisor is authorized to examine the person who makes such a statement, as to its accuracy, or any other person whom he believes to have any knowledge as to the value of the property. In the case of a person refusing to make this

statement, the supervisor has the like powers, and he is authorized to set down and assess to each person such amount as he may deem just. In the valuation of all property, real and personal, he is required to use his own best judgment, setting down in each case what he believes to be the cash value—that is, the usual selling price of such property at sales that are not forced. Before the passing of the Act of 1882, the supervisor was required to file his assessment roll when prepared, and on three consecutive days, of which he must give notice, to hear all objections, take evidence, and make such amendments as he judged proper. The Act of 1882 provides* that after the annual township meeting, and on or before the first Monday in May, in each year, the township board shall appoint two suitable tax-paying electors of the township to serve as members of the board of review for that year. "The supervisor and the two persons so appointed constitute the board. They meet on the third Monday of May and the day following, and pass upon each valuation, making such correction as they think just; they add, also, the names of any persons omitted, with a description of the property in each case. On the following Monday and the day after, the board sit and hear all objections made to the assessment, and take evidence respecting it, and, on sufficient cause being shown, make such corrections as, in their judgment, will make the valuation relatively just and equal. When the roll has thus been completed, and has been duly endorsed, it must be conclusively presumed to be valid by all courts and tribunals. The roll is subject, however, to equalization by the board of supervisors, at their next October session. If this board think the taxation of the real property of the several townships relatively unequal, they may add to or deduct from the valuation of the property in any township or townships such an amount as, in their judgment, will produce relatively an equal and uniform valuation of the real property in their county.

Assessments are equalized every fifth year. In that year the board of supervisors meet on the second Monday of June to equalize the township assessments. When this has been done, the clerk makes out a tabular statement, from the aggregate of the several assessment rolls, of the number of acres of land, and of the value of the real estate and personal property in each township and ward as assessed, and of the aggregate value of the real estate as equalized, makes a certified copy thereof, signed by the chairman and clerk, and transmits the same to the auditor-general, by whom it is submitted to the state board of equalization. When organized, this state board consists of the lieutenant-governor, auditor-general, secretary of state, state treasurer and commissioner of the land office, who meet at the capital on the third Monday of August, every fifth year. They examine the tabular statements sent from the several counties, hear such evidence as any board of supervisors choose to lay before them, and then determine "whether the relative valuation between the several counties is equal and uniform, according to location, soil, improvements, production and manufactories, and, also, whether the personal estate of the several counties has been uniformly estimated, according to the best information which can be derived from the statistics of the state, or any other source." If they find the assessment relatively unequal, it is their duty to equalize it by adding to or deducting from the aggregate valuation of taxable real and personal estate in such county or counties such percentage as will produce relative, equal and uniform valuations between the several counties of the state. The valuation so equalized becomes the basis for apportioning all the state taxes.

The auditor-general apportions the state tax amongst the several counties, according to the valuation, so equalized and determined, and sends a statement of the amount apportioned, and also of debts due from the county to the state to the clerk of each county. The clerk of each township, makes a statement through the supervisor of the township, showing what sums have been voted, and what amounts are to be raised by taxation for highway, township, school and other purposes. The board of supervisors hear, and duly consider, all objections made to raising any such moneys, by any taxpayer to be affected thereby. If it shall appear to the board that any statement, paper or record, is not properly certified, or that the same is in any wise defective, or that any proceeding to authorize the raising of any such moneys has not been had, or is in anywise imperfect, and such certificate,

statement, paper, record or proceeding can then be corrected, supplied or had, such board may authorize and require such defects to be corrected, supplied, or had. They may refer any, or all, such certificates, statements, papers, records and proceedings to the prosecuting attorney, whose duty it shall be to carefully examine the same, and, without delay report in writing his opinion to the board. They shall direct that such of the several amounts of money proposed to be raised for township, school and highway purposes, as shall be authorized by law be spread upon the assessment roll of the proper township. The power of the people in town meeting assembled to vote any sums within the legal limits for those purposes is not affected by the provisions of this section. The board of supervisors can only determine whether the requirements of the law as to the time and manner in which such amounts may be voted and levies ordered have been complied with and failure in these matters of form does not invalidate the action of a town meeting in such cases.

The board of supervisors determine what sums shall be raised for county purposes, and apportion this amongst the several townships. They also apportion the state tax, and they order all those taxes to "be spread upon (the several) assessment rolls." The county clerk makes out two certificates, showing the amounts in gross and in detail, apportioned to each township, and sends one to the county treasurer, and the other to the supervisor. In these each tax is kept distinct. It then becomes the duty of the supervisor to assess the taxes apportioned to his township, according and in proportion to the valuations entered by the board of review in the assessment roll of the township, for that year. When this has been done in the manner prescribed, he gives the roll so prepared to the township treasurer and with it a warrant authorizing him to collect the several amounts. He also, having footed up the several taxes, gives a statement thereof to the township clerk who charges the amounts to the treasurer. The amounts assessed on real property become a lien on such property. The powers and duties of the township treasurer as collector of taxes are fully defined. The auditor-general is made to some extent the guardian of the rights of those whose lands are sold for taxes. The township treasurer retains in his own hands such sums as are collected for the various township services. The amount received for school purposes he pays on the order of the school district officers, and from the state and county taxes he may* retain a sum sufficient to fill any deficiency in the sum collected for school purposes, the sum so retained not to exceed the total delinquent school taxes. The amount raised for general township purposes he pays out on the order of the township board, and the amount of the highway taxes on the order of the highway commissioner. What he has collected on account of state and county taxes, except what he is allowed to retain for school purposes, he pays over to the county treasurer within a week after the time specified in his warrant, and he makes a return of the taxes which he has been unable to collect, with proof that he has done all in his power to collect them. The county treasurer is required to make a return to the auditor-general every three months, showing the amount collected on account of state taxes, and at the same time to make payment of such amount to the state treasurer. He is required to prepare, at the same time, a statement of the accounts between the county and the townships, and to pay such sums as may be due to the treasurers of the townships, respectively. The auditor-general is also required to prepare on the same quarter days his statement of the account between the state and each county respectively, and by warrant on the state treasurer, pay to the treasurer of each county all moneys in the state treasury, collected for county, township, school, and highway purposes, and all other moneys in the state treasury belonging to the county, and notify the county clerk thereof. Before the Act of 1882 was passed the amounts which cities and villages ordered to be raised by taxation the general law required the board of supervisors to spread upon the assessment roll with other taxes. The Act of 1882 provides that the sums required by state and county, when apportioned, and the township appropriations when confirmed, shall be spread upon the assessors' roll by the board of supervisors, and that each supervisor shall, in his own township, on receiving his copy of the certificate from the county clerk, stating the

*Sec. 43

amounts to be raised, calculate how much each person should pay, according to the valuation of property previously made and reviewed, and that the township treasurer on receiving a copy of the roll so prepared, and the supervisor's warrant, become the collector. It afterwards provides* that this act shall be applicable to all cities and villages where not inconsistent with their respective charters. With such exceptions, "the provisions herein as to supervisors, township treasurers and boards of review, shall include all assessing and collecting officers, and all boards whose duty it is to review any assessment roll. The word "township" may include city, ward, or village. . . In any incorporated city the charter of which does not provide for a board of review such board shall consist of the several supervisors or other officers, making the assessments, the city attorney and additional members to be appointed by the common council, who shall not be aldermen equaling the number of supervisors or assessing officers. The authorities of any city or village, the charter of which does not so provide, may provide by ordinance for the return of all unpaid taxes on real property to the county treasurer, in the same manner, and with like effect, as returns by township treasurers. The taxes thus returned shall be collected in the same manner as other taxes returned. The authorities of any city or village which by its charter has the right to sell lands for unpaid taxes or assessments, may provide for judicial sale of such lands, but such sale shall be made on petition filed on behalf of the city or village in interest, and shall conform as near as practicable to the provisions of this act. The process by which lands may be brought to sale for unpaid taxes is formal and slow. The township collector has no right to sell them, neither has the county treasurer. The county treasurer on receiving the reports of the township treasurers, reports to the auditor-general, who thereupon prepares and files in the office of the clerk of the county in which the lands are situate a petition to the circuit court in chancery, praying a decree in favor of the state against such lands; due notice must be given and the validity of any tax may be contested. If the court decide that the tax is valid an appeal may be taken to the supreme court.

If this fail, the land may be sold at the time and in the manner prescribed by the Act, and when a sale has taken place application may be made to set it aside; upon the report of the sale by the county treasurer the auditor-general gives a deed to the purchaser. The auditor-general may for cause at any stage of the proceedings withdraw land from sale. The owner of land returned to the auditor-general for unpaid taxes may petition the auditor-general that such taxes "be rejected as illegal," and the auditor-general may take the necessary steps to ascertain the truth.

Because the expenditures of the states are provided for in great part by direct taxation, the interference of the state in the levying, assessment and collection of taxes is necessary. The policy in most cases is to impose upon the county authorities the duty of valuing all property for the purpose of assessment, and of apportioning the sums to be raised for state, county and township purposes, and in some cases for city purposes also.

In very many cases the valuation of property for state and county purposes is made the basis for the distribution of all municipal taxation.

We had no means of ascertaining whether under the Michigan system there is a nearer approach to absolute or relative accuracy of valuation than has been generally attained under the Ontario system.

In Wayne County there is a board of three auditors, one of whom is elected annually at the general county election for a term of three years.

This board exercise many of the powers exercised by the board of supervisors in other counties. They ascertain and report to the board of supervisors the amount of tax necessary to be raised for county purposes. The county clerk is clerk of this board of auditors. Each of the auditors receives a salary of \$1,000 a year. To the supervisors is left the duty of equalizing assessments, apportioning the state and county taxes, ascertaining and returning the aggregate valuation of real and personal property in the county, and all other matters relating to the assessment and collection of taxes. There is more legislation of an exceptional character respecting this and other places, especially Detroit, which has a special charter, but it is for the greater part unimportant.

*Sec. 95.

Health.

The state board of health is composed of six members, who are appointed by the governor with the assent of the senate, and of a secretary. Their term of office is six years, and one is appointed every year. It is the duty of the board to make enquiry as to all that concerns public health, and to make such recommendations, and in some cases give such directions as they think proper. In a city in which no other provision is made by special charter, the mayor and aldermen are a board of health. In a village, the president and council, and in a township the township board; and these boards have ample powers to do all that may seem necessary to preserve or protect the public health.

Drainage.

The drainage system of this state seems comparatively simple. Chapter 40 of the Annotated Acts provides that watercourses, ditches and drains for the drainage of swamps, marshes, and other low lands, may be established, constructed and maintained in the several counties and townships of the state for the benefit of public health. The board of supervisors appoint one county drainage commissioner, who holds office for two years, and every second year each township elects a township drainage commissioner, who also holds office for two years. Application may be made to any drainage commissioner by any five or more freeholders residing in any township or townships in which the lands to be drained are situate. It would seem that when the lands are situate in more than one township the application must be to the county commissioner.

On receiving such application, the commissioner personally examines the line of the proposed drain, and determines whether it is for the good of the public health that it should be constructed. If he determines that it is not, the parties making the application must pay all costs incurred. But if he decides that the drain is necessary, he, after having caused a survey to be made, determines what the commencement, route and terminus of the drain shall be, and what its width, length and depth.

If within twenty days after this has been done, and a map and plan have been prepared, the persons through whose lands the drain is to pass do not execute a release of right of way and of all damages, the commissioner makes application to the court of probate to appoint three special commissioners to ascertain the necessity of such drain, the necessity of taking private property for the purpose thereof, and the just compensation to be made for such property. The time at which such application is to be made is fixed. The court appoints a time for hearing and considering the same, and issues a citation to all parties, whose lands such drain would traverse, to appear. If the court approve of the construction of the drain, it appoints three special commissioners. These, with the drain commissioner and other parties in interest, proceed on a day of which due notice has been given to view the premises, and after full examination and enquiry determine whether the proposed drain is necessary, and, if it is necessary, whether private property should be taken for the purpose of its construction, and what compensation should be made for such land without taking into account the value of the benefits that may accrue. When "benefits are assessable upon lands on which damages have been awarded," they are otherwise determined, and the amount awarded may be set off against the charge for construction to which the owner of such lands may be liable. The return of their determination and award made in writing by the special commissioners to the drainage commissioner is sufficient conveyance to vest the fee of the lands necessary to be taken for the purpose of the drain, and an order drawn by the commissioner on the treasurer of the proper township is declared sufficient security for such damages as are awarded. The drainage commissioner on receiving such return makes an order establishing the drain, and assesses the per cent. of the cost of the construction and maintenance of such drain, which any township, city or village shall be liable to pay by reason of the benefit of such drain to the public health, or as a means of improving any public highway, and he assesses the benefits to accrue to any piece of land by reason of the construction of such drain. He ascertains the cost of construction and maintenance over and above what is thus chargeable to any municipalities, and this he apportions amongst and assesses

against the lands to be benefited. Such assessment he reviews if requested to do so by any parties in interest. The commissioner, upon the establishment of any drain and the assessment of benefits, makes full return to the county clerk by whom such return is made of record. The township commissioner makes a similar return to the township clerk. At this or any prior stage of the proceedings the owners of the land may themselves, on paying all costs incurred, enter into contract with good and sufficient surety in "such sum as the commissioner may require, to construct so much of the drain on such route, and of such dimensions as he may in such contracts determine and assign to such owners respectively." Otherwise the commissioner divides the work into convenient sections and publicly, after the prescribed notice has been given, lets contracts for the work on such sections. After such letting he determines more exactly what any city, village or township benefited by such drain from sanitary or other considerations should pay, and apportions the balance of the cost of construction on the lands to be benefited. The amount so assessed becomes a lien upon the lands. If the amount assessed prove insufficient, another assessment may be made. Power is also given to deepen or widen drains previously existing, to straighten, clean out, or deepen the channels of creeks and streams, to construct, maintain, remodel and repair levees, dykes and barriers for the purpose of drainage, and to relocate or extend the line of any drain, should this be necessary. Any drain established and partly constructed, but left uncompleted, may be assigned by the board of supervisors to the township drainage commissioner if it is only in one township, or to the county commissioner whether it is one township or more, and the commissioner to whom charge of it is given proceeds to its completion, charging all parties in interest as if the work had been undertaken on application of freeholders. The commissioner may carry a drain through the lands within the boundaries of a city or village, or along or across any public highway. If a bridge or culvert is thus rendered necessary, the cost of construction is added to the cost of the drain, but such bridge or culvert is afterwards maintained as part of the highway. There must be at least one passage over a drain to every enclosed field or parcel of land. A drain may be laid along a railroad, but not to the injury of the road; and when it is necessary to cross a railroad, the company must, on receiving notice, make such opening and build and keep in repair a suitable culvert. Drains may be extended into or through any lake or other body of water surrounded wholly or in part by any swamp, marsh or other low land, but not so as to impair the capacity for navigation of any navigable waters. Blind drains may be constructed where the nature of the ground will permit, and when this is done it is taken into account in estimating the damages done to such land. Drains when constructed remain under the charge of the drainage commissioner, and the cost of keeping them open and in repair is assessed and collected as is the cost of construction. The board of supervisors make such regulations respecting drainage within a county as they think proper, not inconsistent with the provisions of the act. The county commissioner makes an annual report to the board of supervisors of all drains constructed or repaired by him during the year and a full financial account, accompanied with vouchers in each case. The township commissioner makes a similar report and return to the township board.

When it is desired to construct a drain affecting lands in more than one county, an application, signed by at least three freeholders of each county, may be presented to the Probate Court of any of the counties, and the court may thereupon appoint a drain commissioner, who will have all the powers conferred by the Act on the county commissioner respecting a drain affecting lands in only one county. This commissioner is required to make his return to the Probate Court, by which he is appointed, and that court, on his application, appoints special commissioners when necessary.

When a drain is to be constructed wholly or partly in an adjoining state, or the lands to be drained are partly in an adjoining state, application may be made to any county or township drainage commissioner of Michigan representing any county or township in which any portion of the proposed drain, or of the lands to be affected by it, lie, and the same proceedings shall be had touching the portion of such drain, or the lands to be drained thereby, lying within Michigan, as are provided in the case of drains and lands lying wholly within the state.

MINNESOTA.

A brief notice of the municipal system of Minnesota may be useful.

Minnesota, like Illinois, has some counties not organized on the township plan, but from the first it encouraged township organization. The people of a township, in town-meeting assembled, were authorised to elect three supervisors, naming one as chairman, and such other officers as towns usually elect; to make by-laws to a limited extent; to vote such money, in addition to the labour tax, as they thought necessary for roads and bridges, and to vote money for other town purposes. The supervisors have the care and superintendence of the roads and bridges, and have charge of all affairs of the town not committed by law to other town officers, and may draw on the treasurer for sums necessary to defray the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose. If the authorities of a village within the town neglect to make necessary improvements on a street required as a highway the supervisors may make such improvements. The supervisors are *ex-officio* fence viewers, and form a board of audit. They audit and allow all accounts, examine the accounts of the treasurer, and prepare an account of all receipts and disbursements, which is read at the annual town-meeting. The supervisors also constitute a board of health, and in that capacity have considerable powers.

County affairs are managed by a board of commissioners. In the larger organized counties there are five commissioners. In the smaller organized counties, and in all unorganized counties, there are but three. The county is divided into as many districts as there are commissioners, and each district elects one. They hold office for three years. They go out of office so that one—or in larger counties more—is elected every year. They provide for the construction and maintenance of the county buildings, and of county roads and bridges. In counties not divided into towns the commissioners divide the county into road and assessment districts, and appoint an overseer of roads, and an assessor for each. They select the grand and petty jurors; they are paid for the time actually employed in the public service; they determine the amount to be raised for all county purposes, audit all county accounts, and publish an annual financial statement by posting copies on the court house door, and at three other public places, and putting it in at least one newspaper of the county for three weeks. They may, on petition, cause towns to be organized or “vacated,” or may change the boundaries of towns as the law directs.

The county auditor, who holds an important position, is elected by the county at large for two years. The assessor of each township is required to call on all persons liable to taxation for lists of their properties; to ascertain by examination of the parties, under oath or otherwise, if the lists are correct, and to estimate, as nearly as possible, the actual value of the property. He sends the lists so prepared to the county auditor, to whom also the town, county and state officials send statements of the amounts to be raised for the different services. The assessors lists are sent to the state, and to the county authorities, for equalization. The auditor assists the county commissioners in the county equalization.

The equalized lists having been returned to the auditor, he calculates the amounts to be charged to each of those whose names are on the lists, and makes up what is called the grand duplicate. This he hands to the county treasurer, who is the collector of all taxes levied in the county for state, county, city, town, township, school, poor, bridge, road, or other purposes, anything in the charter of St. Paul, or of any town, to the contrary notwithstanding, and has power to enforce payment. He must receive what are called county orders in payment of taxes. He pays to the state treasurer, and to the treasurers of the several towns on order of the county auditor, and to cities, what he can collect for them. The money belonging to the county he pays out on order of the commissioners upon warrant of the chairman, countersigned by the county auditor. The county auditor keeps an account with the treasurer, and audits all county accounts, and all claims against the county. He must also send a list of all “delinquent and forfeited lands” to the state auditor.

The county commissioners may not expend on county roads and bridges more, in any one year, than \$1,000 to every \$500,000 of assessed valuation of real estate, unless expressly authorised by vote of the people, and the towns are required to keep county roads in repair.

There is no general law relating to cities in Minnesota, but one Act does provide that "each incorporated city shall have and exercise within its limits, in addition to its other powers, the same powers conferred upon towns."

THE GROWTH OF TAXATION AND DEBT.

The growth of American cities has been wonderful. The census of 1790 showed only thirteen cities with more than 5,000 and nine with more than 40,000 inhabitants. In 1880 there were 494 exceeding 5,000, forty exceeding 40,000, and twenty exceeding 100,000. To-day there are probably thirty exceeding 100,000. The ratio of persons living in cities having more than 8,000 inhabitants was 3.3 per cent. in 1790 and 22.5 in 1880. Of the ten great cities of to-day only four—Baltimore, New Orleans, New York and Philadelphia—were municipal corporations in 1820. Taxation and debt have increased much more rapidly than population. The increase in population from 1860 to 1875 was 70.5 per cent.; in taxable valuation, 156.9 per cent.; in debt, 270.9 per cent., and in taxation 363.2 per cent. The city debt of Philadelphia in 1867 was \$35,000,000, in 1877 it was \$64,000,000. During those years the debt of Chicago rose from \$4,750,000 to \$13,456,000, and of St. Louis from \$5,500,000 to \$16,500,000. In New York the debt in 1840 was \$10,000,000, in 1860 it was \$18,000,000, in 1870 it was \$73,000,000, and in 1876 it was \$113,000,000. Taxation in New York was 400 per cent. more as compared to population and 200 per cent. more as compared with taxable property than it was in 1850. The great increase in debt and taxation was due to some extent to the necessity of providing within a few years for all the wants of a great city. Where the forest stood some sixty or seventy years ago are now great cities almost fully equipped with all the appliances of city life possessed by older cities. Sudden growth rendered the construction of new works and the reconstruction of those designed for small services necessary. It is generally admitted, however, that much money was wasted and much embezzled. Immediately after the civil war, when people had become accustomed to lavish outlay and corrupt expenditures, and had learned to regard the facility for piling up public debts as the readiest and easiest means of making private fortunes, the debts of cities and counties and states increased enormously, and taxation was imposed recklessly. States and counties have since reduced their indebtedness greatly, but the debts of cities have continued to increase.

THE BASIS OF TAXATION IN THE UNITED STATES.

The subject of assessment is of such importance that we have described at considerable length the system of assessment and taxation as it exists in some of the United States, especially in those of the North-west. The statutory provisions are such as may satisfy any one not acquainted with the facts, that all real and nearly all personal property, including even watches and trinkets are actually assessed, that real estate is assessed at a fair value, and that the assessed value of personal property must bear a large proportion to the assessed value of real estate. This, however, would be a great mistake. Because of the desire of the owners of property to keep their taxes down, because of the desire of townships to evade payment of their full share of county taxes, and of townships and counties to evade payment of their full share of the state taxes, few make a full return of their personal property, and real estate is deliberately undervalued. The cities remain part of the counties in which they are situate, and where they do not virtually include the whole county within their boundaries there is a constant struggle between the urban and the rural districts respecting the division of county burdens. In the city of Chicago, it is stated, the assessed value of all property is now but \$164,000,000, although several years ago it was \$312,000,000, and was then much too low. The repeated equalization to which the assessments are subject may have the effect of making the values of real estate in the different counties and townships relatively fair, but no means has yet been devised sufficient to prevent the concealment or understatement of personal property. In some

flagrant cases men reputed to be worth many millions pay taxes on a few hundred thousand dollars at most. Even in staid conservative New England undervaluation and concealment are the rule. Boston has long had the reputation of carrying out its assessment laws most strictly, but even in Boston now real estate is undervalued and the proportion of the assessed value of personal property to that of real property is manifestly small. "In Connecticut," says Mr. Bryce in his *American Commonwealth* * "real estate is valued at only from one-third to two-thirds of the market price." But a great part, often far the largest part, of a rich man's wealth consists in what the Americans call intangible property—notes, bonds, book-debts and western mortgages. At this it is practically impossible to get except through the declaration of the owner; and though the owner is required to present his declaration of taxable property upon oath he is apt to omit this kind of property." A Connecticut commission report that the proportion of these intangible securities to other taxable property has steadily declined from year to year. "In 1855 it was nearly ten per cent. of the whole; in 1865 about $7\frac{1}{2}$ per cent.; in 1875 a little over 5 per cent., and in 1885 about $3\frac{3}{4}$ per cent. Yet during the generation covered by these statistics, the amount of state, railroad and municipal bonds and of western mortgage loans has very greatly increased, and our citizens in every town in the state have invested large sums in them. Why then do so few get into the tax list? The terms of the law are plain and the penalties for its infringement are probably as stringent as the people will bear. . . . The truth is that no system of tax laws can ever reach directly the great mass of intangible property. It is not to be seen, and its possession, if not voluntarily disclosed, can in most cases be only the subject of conjecture. The people also in a free government are accustomed to reason for themselves as to the justice and validity of the laws, and too apt to give themselves the benefit of the doubt when they have in any way the power to construe it for themselves. Such a power is practically given in the form of oath used in connection with our tax lists since it refers only to such property of the parties giving them in as is taxable, according to their best knowledge, remembrance or belief. The man who does not believe that a western farm loan or foreign railroad bond (*i.e.*, a bond of a company outside the state) ought to be taxed, is too often ready to swear that to the best of his belief, it is not subject to taxation; as the law stands it may be a burden on the conscience of many, but it is a burden on the property of few, not because there are few who ought to pay, but because there are few who can be made to pay. Bonds and notes held by an individual are for the most part concealed from the assessors, nor do they in most towns make much effort to ascertain their existence; the result is that a few towns, a few estates, and a few persons with a high sense of honesty, bear the entire weight of the tax. Such has been the universal result of similar laws elsewhere." This commission recommended that all the items of intangible property be struck out of the tax list, believing this to be the only means of putting an end to injustice. A commission appointed to consider this question in West Virginia, reported in 1884, that it was "a comparatively rare thing to find a shrewd trader who gave in any considerable amount of notes, stocks, or money" for assessment, and that "the paying taxes on this kind of property is almost as voluntary, and is considered pretty much in the same light as donations to the neighborhood church or Sunday school." In 1878, a New Hampshire commission reported that in that state, "three fourths of all personal property is not reached by the assessors." A Maryland commission made a similar report in 1886, and in a supplementary report, Mr. Ely, one of the commissioners shews, that in various states the efforts to tax intangible property have failed.

The governor of Ohio in a special message in April, 1887, said "the great majority of the personal property of this state is not returned, but entirely and fraudulently withheld from taxation. The idea seems largely to prevail that there is injustice and inequality in taxation, and that there is no harm in cheating the state, although to do so, a false return must be made and perjury committed. This offence . . . is too frequently committed by men of wealth and reputed high character, and of corresponding position in society." In his message of 1886, the governor of New York said, that

although four years attention had been directed to the fact that personalty was escaping assessment, there had been from 1871 to 1884 an actual reduction of \$107,184,371 in the assessed value of personalty. And Mr. David A. Wells, in a report to the New York Legislature, says: "Oaths as a matter of restraint or as a guarantee of truth in respect to official statements, have in great measure ceased to be effectual; or in other words, perjury direct or constructive, has become so common as to almost cease to occasion notice. It is believed that the larger the city is, the smaller is the proportion of personalty reached by taxation, and that the richer a man is, the smaller in proportion to his property is the contribution he pays to the state." Where incomes are taxed the difficulty of a fair assessment is quite as great, and the injustice is in many cases greater. Persons holding public offices and the employes of large establishments are generally assessed on their full income, and sometimes pay more than professional men and others, who earn and spend five or ten times as much. In some states there is a belief that if personalty were taxed as the law requires, capital would be driven away. It is stated as to Boston, where an earnest effort has been made to ascertain the amount of personal property liable to assessment, and the chief office has for twenty years increased every year the amount at which those who would not make returns were assessed, that nearly all the capitalists have taken up their residence in places outside the city limits. The municipal authorities of those places are usually willing to accept what the capitalists choose to pay, and a man can be assessed on his personal property only at his place of residence. In some cities and in two states, trades, professions and occupations are made the subject of taxation. Railroads, banks and joint stock companies generally are usually assessed at the full value of their stock.

Professor Richard T. Ely, in his work on "Taxation in American States and Cities," says that "one reason why the present system of taxation was universally introduced may be found in the progress of democratic thought. It was desired that all should contribute in proportion to their abilities. . . . The sentiment to-day all over the union in favour of the taxation of all property is very strong. . . . It is of no avail to talk about abolishing taxes on personal property, as some do, unless something is substituted for the personal property tax, so unalterable, has become the determination to tax every one in proportion to his ability." "But," he says, "the existing method of assessing and taxing property was better adapted to the first half of the nineteenth century than to the second half, because taxation was less important, and also because property could be more readily found. . . . There was comparatively very little personal property in existence one hundred years ago. Now, although our system of taxation is on the face of it fair and simple, it is found in practice to be an impracticable theory, for a large portion of property escapes taxation, and that the property of those best able to bear the burdens of government, namely, the wealthy residents of cities. On the one hand, it is impossible to find this property, and to force men to make returns under oath results invariably in perjury and demoralization without discovery of property. On the other hand, federal laws . . . enable many to escape taxation by investments, often temporary in federal bonds exempt from taxation. . . . The one uniform tax on all property, as an exclusive source of revenue or as the chief source—the main feature in direct taxation—never has worked well in any modern community or state in the entire civilized world, though it has been tried thousands of times, and although all the mental resources of able men have been employed to make it work well.* "Mayor Hewitt, of New York, in a message, quoted by Professor Ely,† says: "The estates of widows and orphans and wards in chancery pay the full amount of taxation required by law, while bloated capitalists either entirely escape taxation or compromise for a very inadequate sum. This condition of affairs is scandalous." Mr. Hewitt estimates that all personal property, except bank shares "yields only about a sixth of the total amount collected in that city by taxation." The Maryland tax commission of 1881 asked the appeal tax court of Baltimore "To what extent do you succeed in reaching investments made by residents of this state in private securities of any kind?" The answer was, "We utterly fail in reaching private securities of every description. Here and there, only, have they

been returned by some conscientious holder." Of that great proportion of personal property which is intangible and invisible very little is taxed anywhere, and the owners contrive in various ways that of what is visible and tangible, such as stocks of merchandise and the machinery and materials of manufacturers, much escapes taxation. There is also a tendency to undervalue real estate, especially when by that means a city, village, or township may escape payment of a due proportion of a general tax. A few examples will show how the present system works in several cities of the United States.

	<i>Real Estate Valuation.</i>	<i>Personal Estate Valuation.</i>
Boston, 1867	\$250,587,700	\$194,358,400
" 1874	554,200,150	244,554,900
" 1886	517,503,275	193,118,060
New York state, 1875	1,960,352,703	407,427,339
" " 1885	2,972,348,218	332,383,239
" city, 1884	1,119,761,597	181,504,533
Philadelphia, 1868	445,563,317	7,954,169
" 1876	585,408,705	10,004,673
" 1887	618,059,987	10,619,325
Cincinnati, 1867	68,569,040	68,412,285
" 1876	127,143,900	56,809,066
" 1886	129,378,370	42,571,661
Ohio state, 1886	1,173,106,705	515,569,463
		<i>Total Valuation.</i>
Chicago, 1873		\$312,072,995
" 1875		173,764,246
" 1880		117,133,643
" 1887		161,204,535

It is believed that in prosperous cities, the value of all personal property, at least equals the value of the real estate. In the cities of Great Britain, it is said, to be twice as great. If this is true, the attempt to raise revenue in the cities of the United States by taxing personal property has failed most decidedly. The figures given above prove that the concealment of personal property and the undervaluation of what cannot be concealed are carried farther every year. Boston appears to have made the most earnest efforts to make the taxation of personal property what the law intends it should be; but even in Boston, the difficulty of discovering the invisible, or the feeling that a tax on personal property is unfair, must have increased, as the assessed value of personal property was 51 millions less in 1886 than in 1881. In New York, Cincinnati and other cities personal property according to the assessors has greatly diminished in value. The statement made for Chicago does not give the assessed values of real and personal property, but it does show how shamelessly public officials can act when public opinion urges them to disregard their oaths. The struggle between city and county as to the distribution of county burdens has led to the systematic undervaluation of property of all kinds. The valuation of personal property has, for many years, been most absurdly low in Philadelphia.

The valuation of personal property in Massachusetts exceeded that of the state of New York by \$151,128,018 in the year 1880, and the valuation of personal property in Ohio exceeded that of New York state by \$118,214,091. The New York *Times* said in July, 1885: "There is scarcely a doubt that the wealth held in this city, in the forms classed as personal property, greatly exceeds that held in real estate. . . . There is, no doubt, that twenty-five men in this city could be named whose wealth in personal property alone exceeds the entire valuation of that class of property as shown on the assessment rolls."

In Philadelphia the taxation of personal property has for many years been merely nominal. In 1886 the assessed value of the entire property was \$611,309,615. Of this about 38 millions was classed as suburban and paid a rate of \$1.23½ and about

18 $\frac{3}{4}$ millions was classed as farm and paid 92 $\frac{1}{2}$ cents. The rate on the rest was \$1.85. The items of personal property then taxed were but three; horses and cattle, which in 1885 were valued at \$2,905,378; furniture valued at \$6,914,346; and carriages for pleasure valued at \$746,682. Personal property therefore yielded less than 1 $\frac{3}{4}$ per cent. of the \$10,899,121 raised by taxes.

Commenting on these facts Messrs. Allinson & Penrose say: * "The advantage of the real estate or Pennsylvania system is that this object is the most fixed and certain; the tax sooner or later indirectly reaches all other objects of value; it is more generally acquiesced in; is not inquisitorial, does not provoke fraud and deception; does not fall only on widows and orphans through their executors and trustees or upon those who are not willing to swear that furniture costing from \$10,000 to \$50,000 is worth only \$500."

It is not quite correct, however, to state that Pennsylvania taxes only real estate. Besides the small amount of personal property taxed in Philadelphia, and similar taxes are probably levied in other cities, the state taxes the income or net earnings of all corporations except those liable to a tax on capital stock or gross receipts, foreign insurance companies, private bankers, brokers, unincorporated banking and saving institutions and express companies.

Professor Ely advises that the efforts to tax invisible property in cities be abandoned, and that in lieu of such taxation, as is now imposed upon visible personal property, a business tax proportioned to the rent of each place of business be imposed. "In Montreal," he says "this tax works very satisfactorily. The percentage is seven and one-half and merchandize is exempt. Intangible personal property is also exempt and the system seems to give very general satisfaction. Real estate owners do not complain because they realize that it helps to bring business to the city, and that that raises the value of their property." Mr. Ely argues that an excessive tax on banks and insurance companies must prove injurious to the trade of a city, and that money invested in mortgages should not be taxed at all, as the effect of such a tax must be to raise the rate of interest generally, or else to drive capital out of the state. The water supply, the gas supply, the street railroads, he contends, should be owned by cities; or these and all other natural monopolies should be made sources of revenue. Franchises, when disposed of, should be put up to public competition on such terms as would secure to the city the increase of value arising from the city's growth. City property should be leased in the same way and on similar terms. In many cases there are, he thinks, "gainful pursuits" in which civic corporations may engage to the general advantage. An income tax properly adjusted, he thinks, the most equitable and least burdensome of all taxes; but cities, he thinks, should not endeavour to raise any part of their revenue by means of an income tax. Whenever an income tax is levied for municipal purposes those whose incomes are easily ascertained complain that it is grievously unjust and oppressive. "Poll taxes," he contends, "are unworthy of a civilized nation in the nineteenth century."

Bolles, in his *Financial History of the United States from 1861 to 1885*, states that of all the internal revenue taxes imposed during the great civil war the most unpopular was the income tax. The chief grounds of objection to it were the unfairness of the pressure on different classes of income, the inquisitorial nature and arbitrary power granted to the executive department of the government in collecting it, and its demoralizing tendency." The author argues that the inquisitorial nature of the tax which was perhaps the crowning objection applied to it no more than to the city, town, county and state taxes that had been paid from the origin of local government. The income taxes introduced no novelty in taxation. "Did the people object to the property taxes assessed by the states and cities? . . . The tax was laid upon ability sufficient to sustain the burden." In reply to the complaint that the system of espionage was connected with the collection of this tax Commissioner Delane said that "he did not see why this objection might not with equal force be urged against all taxes on personal property. Such taxes cannot be collected without ascertaining the amount of personal property possessed by the taxpayer. The law . . . simply required a truthful and honest statement of the actual income of the taxpayer during the preceding year which could be complied with

as easily and with as little exposure of private affairs as any other law, national, state or municipal which is to raise revenue from the personal estate of taxpayers." Mr. Sherman, speaking on this subject in the Senate, said, "A few years of further experience will convince the body of our people that a system of national taxes which rests the whole burden of taxation on consumption and not one cent on property or income is intrinsically unjust. While the expenses of the national government are largely caused by the protection of property it is but right to require property to contribute to their payment." Such statements and arguments weighed little with the public. So long as prices were rising and the volume of circulation was so enormous few complaints were heard. In 1866 the internal revenue from all sources amounted to \$310,906,984—a larger amount than was ever drawn by a nation from internal sources in twelve months. "While much injustice was perpetrated . . . by unlawful evasion, thereby increasing the burden of those who honestly paid; yet assessments were much more general and complete than they have ever been among the States. By far the greater number of income receivers paid, if not on the whole amount of their income, on a considerable portion of it. Those who escaped wholly or in part were the exceptions. . . . No war tax commanded a heartier general support nor was in truth more justly laid. Not every one, however, paid the tax reluctantly. The list of incomes was generally published, and many a man was delighted to let the world know in this way, not of his own seeking, the size of his annual income." But when the war was over and the enormous government expenditure ceased discontent became general. "More than one man paid a tax on a fictitious income in order to sustain his credit. . . . As personal incomes grew less men tried to hide the fact from the world. The payment of the income tax prevented them from shutting the door to effective secrecy." An effort was made to render the tax less obnoxious. In 1867 the exemption was raised from \$600 to \$1,000, and a uniform rate of five per cent. was substituted for the different rates of five and ten per cent. Three years later the exemption of \$1,000 was doubled, the five per cent. rate was reduced one-half, and "all the harsher features of the law were removed." When the Act authorizing the tax was about to expire it was "continued for two years longer."

Mr. Bolles asks, "Why if a national income tax were so unpopular . . . is a State tax so well endured?" He supplies the answer, "Because the state is less efficient in collecting it, and those who should pay the largest taxes, and who if doing so would complain the most loudly to a very large extent evade them." This, it is admitted on all hands is equally true of the taxes on personal property and income levied by municipal authorities.

The banks sought exemption from taxation upon several grounds, one of which was that if relieved from the tax they would lessen the rate of interest and thus relieve the borrower. Mr. Bolles says of this, "Such a keen regard for their customers was highly commendable, nor was this the first time that individuals and institutions had desired to be generous and helpful at the public expense. The history of mock philanthropy is covered with the moss of ages. The finance committee of the senate questioned the soundness of the reasoning contained in the application. 'It is somewhat doubtful,' remarked Senator Morrill who presented the report 'whether or not such a removal would make any appreciable difference to the advantage of customers of banks. Banks are by no means the sole lenders of money and they are compelled to lend on as favorable terms as can be obtained elsewhere, or their loanable funds will lie idle. Banking institutions are intended to be and are institutions for the accommodation of the public, but their managers do not forget that their stockholders prefer large rather than small dividends, and therefore they seek the highest legal rate of interest compatible with the full employment of their capital. They will demand about the usual market rates. The value of money in banks is not exempt from the universal law of supply and demand . . . though it cost the lender much or little, the price for its use will be regulated not by the forbearance of the government, but by the demand.' The average dividends of the banks for several years previous was a fraction over ten per cent. The application met with no favour.

IN GREAT BRITAIN.

In Great Britain real property bears all the burdens of local taxation, and there is reason to believe that it is assessed at its fair value in most cases. The three independent valuations for poor law and other purposes differ remarkably little, and it may be that each of these serves as a check on the others. Incomes are taxed only for state purposes and great precautions are found necessary to prevent fraudulent returns of incomes. There is no reason to believe that such frauds as are said to be common in the United States are attempted. Indeed the returns render it impossible to believe that fraud is successfully practised to any considerable extent.

In England, as in the United States, the direct taxation of personal property became more difficult as the personal property of residents in cities and towns increased, until at length, becoming impracticable, it was abandoned. For some centuries the greater part of the national revenue was raised by taxes on movables. Now a direct tax on personal property for any purpose, national or municipal, is unknown in that country.

Dowell, in the third volume of his work, "The History of Taxation and Taxes in England," states that in 1188 when the famous Saladin Tithe was imposed the various taxes previously levied upon the land were merged in a general system of taxation by means of grants of fractional parts of movables. These varied at first, but the practice settled down to grants of fifteenths for the counties and tenths for the towns and the tenants of demesne outside the towns. The grants sometimes included rents from lands, but generally these taxes were levied outside the towns upon the cattle and crops of the land-owners, and in towns upon the capital value of stock in trade and chattels. It was found difficult to assess these taxes fairly, and in consequence of the numerous complaints an arrangement was made in 1334 by which the amounts to be paid as fifteenths and tenths were fixed. They amounted in the whole to about £39,000. This system continued in force for nearly 300 years; but, as wealth increased and the value of money decreased, it became necessary in many cases to grant several fifteenths and tenths at a time. The last grant of this kind was made to James I., in 1623. Long before that the arrangement of 1334 worked unequally and unjustly. "Side by side with the taxes on movables was planted and grew another tax which extended to land as well as movables. We see the germ of it in 1382, after the peasant revolt which had been occasioned in no small degree by the poll tax introduced upon the plan of a French tax." This, which was levied also as a fifteenth and tenth, continued until it was developed into the "subsidy" of Tudor times. In their time and in that of James I., both subsidies and fifteenths were raised—the subsidy by a pound rate upon lands and upon goods. Under the subsidy system persons were not charged both in respect of profit from land and in respect of movables, on the principle that none are to be doubly charged. The amount charged for a full subsidy was 2s. 8d. in the pound for movables, and 4s. on the pound yearly profit from land. The subsidy system continued until the civil war, when a system of monthly assessments was substituted for it by what is known as the Taxing Act of 1656. This enacted that the sum of £60,000 should be raised within three months, commencing on March 25th, by assessment. It stated the amount to be raised every month in each county, city and town. This was to be raised by a ground rate on all "lands, tenements, hereditaments, annuities, rents, profits, parks, warrens, goods, chattels, stocks, merchandizes, offices or any other real or personal estate." The rate was so much in the pound on the rent or yearly value of land and real estate, and on an assessed income of £5 per cent. on the capital value of money, stock and other personal estate as would raise the specified sum. Commissioners were appointed for each county and for each town of a certain size. The county commissioners "sub-divided themselves into sets of divisional commissioners," and these appointed surveyors, assessors and collectors. The system of assessment and collection seems to have been well devised. Professors and ministers in colleges and schools and the property of the public hospitals were exempt from the tax. Absentees were "assessed a double proportion on their lands, stocks and chattels." Ireland was required to raise £20,000 and Scotland £5,000 in like manner. The whole amount raised in that way was £600,000 a year—a large sum for those days.

This form of taxation was used frequently during the reign of Charles the Second, and the first five years of William and Mary "until the exorbitant inequalities of the old proportion of charge, and the fact that movable property had slipped out of the assessment caused it to be abandoned."

In 1692 Parliament returning to a pound rate granted 4s. in the pound for one year, to be levied on all real estate, offices and personal property, taking for real estate the rack rent or yearly value; for stipends from offices, the amount of the stipend, and for personal property, goods and chattels an assumed income calculated at six per cent. on the capital value. Stock on land and household property were not to be assessed, and naval and military offices were exempted.

This impost was to a large extent a failure, as the returns made by those who were to pay the tax were in many cases of the loosest description, and the product of a similar tax in the years following grew smaller every year. In 1697 Parliament granted 3s. in the pound and provided that this must yield about two million pounds, of which each county must contribute a due proportion. Other enactments were found necessary which in effect made such grants as regarded each district the charge of a certain sum of money to be levied therein upon those possessed of personal property, those who held any public office or employment and the possessors of land. The personal property to be rated was described as "ready money, debts due, goods, wares, merchandise or other chattels, or any personal estate in the realm." On six per cent. of the estimated value of these, and on salaries, a portion of the grant was levied equal to a shilling in the pound for every £500,000 granted, and the remainder was levied by a pound rate on all real estate. The mode of assessment and collection was essentially the same as under the law of the Commonwealth. Personal property, we are told, slipped out of the assessment under this Act also, and so completely that after some years the tax was described "in fiscal expression as (the) annual land tax, and as such it was granted for the next 100 years. It varied in amount considerably, rising frequently to the maximum, 4s., and falling once to 1s. in the pound." Pitt, who was compelled to resort to every conceivable means of raising money, made the 4s. land tax "perpetual as a charge on the various districts specified in the Act, with power for those interested in the land to buy up and become themselves entitled to an amount of rent charge equal to the tax." The tax was assessed on the valuation of 1695, made permanent as the tax itself was. Where levied still it is absurd in its operation, equalling ten per cent. of the present value in some cases, in others amounting to no more than two pence in the pound. In Liverpool, which has since become a great city, it is but 1-36th of a penny. Up to 1885 only about £850,000 a year of this tax was redeemed, and there remained £1,044,850 unredeemed. The amount redeemed has not averaged £3,000 a year for some years. Official salaries and personal property were still taxed, but the entire amount of revenue from these sources was but some £150,000, and this Pitt made a permanent charge on the counties. In 1876 this tax on official salaries, except those charged on the public revenue, was abolished.

In 1799 an Act was passed imposing a tax on income from hereditaments in Great Britain and elsewhere, from personal property or property of any other kind, and any profession, office, stipend, pension, employment, trade or vocation. Several abatements were allowed. The tax it was estimated would produce ten million pounds—the actual yield was not much over six millions. It was repealed after the peace of Amiens. Addington's property and income tax from 1803 to 1806, although the system of assessment was much modified, was not more successful. Other changes were made in 1806, and the tax as then imposed continued until 1815. There was no attempt in these latter Acts to tax personal property, and in 1842 Peel did not propose to tax personal property. By his bill all incomes above a certain amount, no matter whence they were derived, were taxed alike, the only exception being that the taxable income of farmers was presumed to be equal to "one-half the rent paid in England and a third in Scotland." No attempt has since been made to tax personal property directly for any purpose.

In England, as in America, when personal property increased, and became to a large extent intangible and invisible, it was found impossible to make it bear directly a fair share of taxation. For some centuries the tax on movables seems to have yielded the

chief part of the English revenue, but when the nation was much more wealthy personal property "slipped from the assessment." During the great wars of the latter part of the last century and the earlier years of the present century, the revenues from customs and excise duties and the land tax, were insufficient to meet the wants of the Government, and several taxes, which would in this country be regarded as odious and intolerable, such as the hearth money, the window tax, the taxes on carriages, horses, dogs, servants in livery, women servants, pig tails (or the hair powder tax), watches and clocks, and armorial ensigns, were imposed, but personal property as such was not taxed because experience had proved that such a tax would be unproductive, and in numberless cases unjust.

Mr. Dowell says* :—"The dislike of individuals to state precisely what they are worth in movable property—for there is no difficulty in the assessment of lands—has in many countries induced the Government to have recourse to some secondary means for the estimation of the ability of the taxpayers to contribute towards the necessities of the State. In England this method has been much used." The Probate administration and inventory duties were, until 1853, taxes on personal property exclusively. The Succession Act of that year imposed a duty on all property, landed and personal, devolving from the enjoyment of one person to that of another, in consequence of death, whether as the result of some personal disposition of it, or of a devolution by law, except property subject to the Legacy Duty Act. The duty varies from one to six per cent., according to the degree of relationship between the successor and the person from whom he derives his succession. If the successor is not of kin the duty is ten per cent. Further change was made by the Act of 1881, which established "a single estate account duty," and effected a fusion of that with the legacy and succession duties. The taxes on successions in 1885 produced £7,725,000. How much of this was a tax on personal property we could not ascertain.

Other duties, which are regarded as duties on personal property or on wealth, produced in 1884-5 ;—

On Carriages.....	£549,406
“ Servants	139,046
“ Armorial ensigns.....	77,455
“ Sporting licenses.....	180,593
“ Gun licenses	83,767
“ Dogs.....	341,672
	<hr/>
	£1,371,939

The stamp duties and the taxes on railway receipts are also regarded as in part at least, indirect taxes on personal property.

It is not easy to understand how it happens that, although the attempts to tax personal property directly have failed so signally, the national income tax has been so productive. Persons who would conceal the amount of their personal property must be willing to disclose the amount of their incomes, or the means of compelling disclosure must be more effectual. In 1884-5 the assessed incomes of the United Kingdom amounted to £529,500,000, made up as follows :—

Income from real estate	£175,500,000
Estimated profits of farmers	32,500,000
Incomes from any public revenue, Imperial, colonial or foreign	41,000,000
Incomes of persons in public employment.....	29,500,000
Incomes from professions, trades, manufactures and commerce	251,000,000
	<hr/>
	£529,500,000

Incomes up to £150 are exempt, and on incomes up to £400, abatements ranging from £80 to £120 are allowed; yet, in that year a tax of sixpence on the pound yielded £12,013,000—over two million pounds for every penny. In any part of the United States or of Canada, where an income tax has been imposed for municipal purposes, it has thus far been found impossible to obtain results so satisfactory.

IN SWITZERLAND.

M. Gustav Cohn, in an article dated Gottingen, January, 1889, and published in the *Political Science Quarterly* for March, gives a very interesting account of recent experiments in the taxation of income and personal property in the canton of Zurich, and their results. "It has often been said that Switzerland is a political trial field, whose experiments are instructive for the constitutional and administrative organization of other countries. This," he tells us, "is especially true of the most recent period during which the habitual demands of modern democracy have been realized in the smaller cantons, and to some extent in the confederation with a rich variety of detail. The situation is the more interesting because these modern experiments are connected again with the old democratic assemblies (*Landsgemeinden*) of the original cantons. . . . Among the cantons which have afforded a field for the new democratic experiments, the canton of Zurich stands foremost, and the importance attributed to income and property taxes in the modern democratic programme is shown by the fact that in this very canton the attempts at tax reform have been directed more especially and exclusively than in any other towards developing the income and property taxes for state and locality. Indeed, there is, perhaps, no second case in the civilized world where this form of taxation has been exploited to such a degree as regards both the amounts imposed and the suddenness of the progression." Mr. Cohn tells us that he lived in Zurich for a number of years, and studied the working of the system on the ground.

Adam Smith was opposed to the taxation of personal property because "the whole amount of the capital stock which a man possesses is almost always a secret," and "an inquisition into every man's private circumstances would be a source of such continual and endless vexation as no person could support." Capitalists would be apt to abandon a country in which they were exposed to such vexatious inquisition, and, therefore, the nations which have attempted to tax the revenue arising from stock have been obliged to content themselves with some very loose and therefore more or less arbitrary estimation. The extreme inequality and uncertainty of a tax assessed in this manner can only be compensated by its extreme moderation." This, Mr. Cohn calls empiricism. Its unsoundness, he thinks, is proved by the fact that Pitt, himself an admirer of Smith, introduced the income and property tax into England. Pitt's efforts to raise income by taxing personal property were not, however, very successful. Thiers, the French statesman, maintained that all direct taxation "is that of barbarous peoples." The European democracy, M. Cohn says, desires "a readjustment of the equities between the haves and the have-nots, the well-to-do and the needy classes of society." What all should desire, if it can be found or framed, is a system under which every one must contribute his fair share of all national and municipal expenditures. How this can be effected is really the only question that requires consideration. Modern Radicalism insists that even the revenues required for national purposes should be raised exclusively by direct taxation, and M. Cohn regards the income tax of England and of Germany as practical admissions of the soundness of that principle. So long ago as 1852, the constitution of the canton of Argau provided that "new, indirect taxes, in addition to those at present existing, can be introduced only by a constitutional provision."

The constitution adopted by Zurich in April, 1869, provides that:—

"All persons liable to taxation must contribute to the burden of state and community in proportion to the means at their disposal.

"The property and income tax is to be arranged according to classes on the principle of moderate and just progression.

"Property of small value belonging to persons unable to work, as well as that part of all incomes which is absolutely necessary to life, is exempt.

"The progression shall not exceed five times the simple rate in the case of income, nor double the simple rate in the case of property.

"Property can be assessed only proportionally for local burdens.

"The state levies a tax on inheritances progressively, according to remoteness of relationships and the size of the inheritance."

The rate for the property tax is so fixed that of the first 20,000 francs of each individual mass of property, only five-tenths is put in the tax lists; of the succeeding 30,000 francs, only six-tenths; of the next 50,000 francs, only seven-tenths; of the next 100,000 francs, only eight-tenths; of the next succeeding 200,000 francs, only nine-tenths. The surplus over and above the sum last mentioned is entered at the full amount. In the assessment of incomes "the minimum of existence" declared exempt by the constitution "includes for every income the first 500 francs. Of the succeeding 1,500 francs, only two-tenths is put on the tax lists; of the next 1,500 francs, only four-tenths; of the next 3,000 francs, only six-tenths; of the next 4,000 francs, only eight-tenths; the full rate beginning with amounts above 10,500 francs. "In the income tax as in the property tax, the relief accrues to every individual income, no matter how large. With the rate of four per mill, as it stands since 1877, an income of 50,000—100,000 francs pays almost eight per cent., but an income of 2,000 francs only one and a-fifth per cent." In addition to this tax, the communal law of 1875 imposes a tax on property, household and individual, in the proportion of one franc per 1,000 francs property, one franc per household and one franc per individual. M. Cohn thinks it necessary to argue that such a progressive system of taxation is essential to ensure a just distribution of taxation, and quotes the great Athenian law-giver. Solon based his tax law upon the principle that "the smaller the income of a citizen, the less in proportion should the state take from an equally large part of it, compared with the higher income of another citizen. For every citizen must first obtain a maintenance for himself and his family, and the poor man, compared with his richer neighbour, suffers if he be taxed in the same proportion and at the same rate."

From 1803 to 1831, a property and income tax was only levied under extraordinary circumstances. Since 1832 a tax of that kind has been levied annually. Up to 1843, this tax yielded a revenue equal to one-fifth of the whole income of the canton. After that, the amount raised by all means increased rapidly. In 1878 it amounted to 5,753,000 francs, of which 3,118,000 was yielded by the property and income tax. In the communes, in addition to the income from fifty-five millions of public property, 5,932,113 francs were raised by a communal tax in 1880. The cantonal tax rate was four per mill; the communal rate in most cases is six to seven per mill, rising sometimes to ten per mill. In 1881, a man assessed on 3,000 francs personal income and 60,000 francs property paid in Zurich 359.60 francs communal tax and 197.30 to the state, or 556.90 in all. In Lucerne he paid 336 francs to the commune and nothing to the canton; in Berne he paid 165.75 to the commune and as much to the canton; in Glarus, 200.10 to the commune and 126.25 to the canton; in St. Gallen, 198.50 to the commune and 82.80 to the canton; in Schaffhausen, 177.50 to the commune and 94.80 to the canton; in Aarau, 252 to the commune and nothing to the canton; in Basel, 16 to the commune and 80 to the canton; in Liestal, 166, and in Solothurn, 172 to the commune and nothing to the canton.

Adam Smith admitted that the tax on property was paid with great fidelity in Hamburg, and said that "in a small republic where the people have entire confidence in their magistrates, are convinced of the necessity of the tax for the support of the state, and believe that it will be faithfully applied to that purpose, such conscientious and voluntary payment may sometimes be expected." Of a similar tax in Holland he said:—"It was in general supposed to have been paid with great fidelity. The people had at that time the greatest affection for their new government which they had just established by a general insurrection." M. Cohn argues from the figures given above that, in Zurich and the other Swiss cantons, the cases of "tax dodging" have been rare, and that "the cosmopolitanism which Adam Smith ascribed to the capitalist has until now been regularly over-

come by the affection of the Swiss for their fatherland." He asserts also that the Swiss "have not been satisfied with some very loose and arbitrary estimation compensated by the extreme moderation of the tax." He admits, however, that personal property and income are not assessed quite fairly, although in most of the cantons the means of ascertaining the value of properties and the amount of taxable income are at least as good as in any of the rural districts of Ontario. In Zurich "an effort has been made to provide for an official inventory in every case of decease, in order to control the truth of the property returns. But this measure has aroused a steadily increasing antagonism, and the same ill-fortune has befallen other measures of a similar nature." Such data as have been obtained from inventories taken in cases of judicial guardianship, and in collecting the inheritance taxes show that the assessment for the property tax reached on the average half the actual amount. In many cases the assessed value differed from the actual value by but a tenth or less. In many other cases, therefore, the assessed value must have been very much less than one-half the actual value. M. Cohn says "the condition is plainly not satisfactory. The inquisition which Adam Smith feared is avoided, thanks to democratic institutions; but the inequality of the burden of taxation is present in a high degree in consequence of the inequality in honesty and in political maturity. The high rate of taxation makes this inequality particularly serious."

Notwithstanding "the affection of the Swiss for their fatherland," which M. Cohn would have us believe strong enough to induce capitalists to make honest returns of their property to the assessors, the imposition of a tax on personal property and on income does not work more fairly in Switzerland, all things considered, than it worked in England in the time of the Commonwealth, after the Restoration and after the Revolution, or than it works in the United States or in Canada at the present day. In republican and democratic Switzerland, as in all the other countries of continental Europe, taxation, national and municipal, has increased enormously within the last thirty or forty years. In Zurich, we are told, "the highest endurable rate (of direct taxation) was reached in a few years with a sudden jump, and yet there was a chronic deficit. One of the leading papers of the party which had long insisted upon raising all revenue by direct taxation said in 1884, "The best argument for indirect taxes is the difficulty of carrying out the system of direct taxes in a way that is fair for all. . . . The cantons are at their wit's end with their policy of taxation." M. Cohn himself says, "there is a widespread feeling that it is impossible to go any further" in the way of direct taxation. He also says, "Even in the monarchic states of Germany, the unavoidable participation of the self-governing localities in the administration of the tax laws produces analogous results. Because it is impossible to obtain a knowledge of the income of the citizen from the centre of the state and through its officials without calling into play the local aid of the community itself, the assessment is based principally upon those democratic elements which come unchecked to the front in a democratic republic. The weaknesses and consideration for each other's weaknesses in a body of neighbours who demand for themselves and their associates an illegal privilege in the payment of taxes make themselves felt even in monarchic states. Recent experiences in the Prussian Chamber of Deputies show that here, too, the popular will, acting through the parliamentary power, is able to defeat legislative measures intended to secure more stringent methods of assessment."

Such experiences, M. Cohn thinks, "ought not to be regarded as reasons for condemning the whole system of income taxation," in which he seems to regard a tax on personal property as included. He seems to agree with Professor Ely that an income tax fairly levied on the progressive principle would be the most equitable of all possible taxes. He thinks that the gradual insight and sense of duty amongst the citizens, and an improvement in the methods and in the execution of the methods for the collection of the tax, would prove successful in securing a fair income tax if those who clamour for reform would but accustom themselves to prove by deeds the love for liberty and for country so often paraded in words. The exemption of the "minimum of existence," he regards as a questionable dogma. If such exemptions be carried far, the result may be that "the rights will be exercised by those who bear no burdens, and the burdens will be borne by those whom democratic institutions have stripped of power and placed under guardian-

ship." The minimum of existence, he also argues, includes the blessings of state which belong as much to the life of every civilized man as his daily food or the air. The principal value of M. Cohn's article and of the facts therein stated for the purposes of our enquiry are that they prove so conclusively that taxes on personal property and income have failed so completely to give satisfaction or to produce revenue where the circumstances seemed most favourable for their fair distribution. The majority of the people of Zurich deliberately adopted this system of taxation, and, as in several of the United States, the valuation for the assessment of state and municipal taxes is the same; yet the assessed value of property for the purpose of taxation is, on the average, but about one-half of the actual value.

It is to be regretted that we have been unable to learn more of the workings of local self-government in Switzerland and in other countries of continental Europe in which municipal institutions have existed for centuries. The information on this subject furnished by the writers whose books we have succeeded in procuring, proved to be very meagre. It was to have been expected that, when important changes in local government were proposed in England, some works describing the continental systems, at least in outline, would have been published, but no work of that kind valuable enough to command public attention has yet appeared. It was proposed some time ago to send a commission from New York to learn and report what the European systems are, and what the experience of those old countries teaches that may be useful to the new, but the proposal, although seriously discussed, has not been acted upon. The labours of Dr. Shaw, of the Johns Hopkins University, and of others who are now in Europe engaged in the study of those systems, will probably be productive of much good.

THE REMEDIES.

Many remedies have been proposed for the evils of municipal administration. In some cities, as in Cincinnati, a second board was created in the council, in the hope that one would serve as a check on the other. In New York, on the other hand, the board of assistant aldermen was abolished by the charter of 1873. The New York commission of 1876, of which Mr. (now Senator) Evarts was a member, reported that the chief cause of the evils complained of was the election of incompetent and unworthy men to fill important offices. This is the root of the evils of municipal government everywhere, and the great problem is:—"How can the services of able and honest men be secured?" They also regarded the introduction of state and national politics into civic affairs and the meddling of the legislature—which about that time did meddle largely in the affairs of New York city—as very mischievous. They proposed as one, and, perhaps, the most important, of several remedies, that the legislative power should be vested in two bodies: a board of aldermen, elected by manhood suffrage, and a board of finance of from six to fifteen members, elected by voters who had for two years paid an annual tax on property assessed at not less than \$500 or on a rent of not less than \$250; this board to have practically exclusive control of taxation and expenditure and of the exercise of the borrowing powers, concurrence of the mayor, the state legislature and of two-thirds of the board of finance being required for any loan, except in anticipation of revenue. A system somewhat similar to this is in operation in Australia, and is said to work satisfactorily; but the proposal found no favour with the New York legislature. They also proposed an extension of the general control and appointing power of the mayor. This suggestion has been adopted in some cases. They also proposed that the legislature should not be permitted to interfere with municipal governments by special legislation. The constitutions of eleven states now prescribe that there shall be no special legislation respecting municipal or other corporations, but the constitution of the State of New York has not yet been so amended, and there is no general legislation upon the subject in that state.

The abolition of the ward system and the election of the members of the council by the city at large, or by large districts, many have maintained would secure the election of better men, and put an end to jobbery and the "game of barter in contracts and public improvements" which produces results so evil. This has been adopted in New York, Brooklyn, Chicago and probably in other cities. In New York and Brooklyn some of the aldermen are elected by districts and others, about a third of the whole, by the city at large.

"There is no doubt," says Mr. Bryce in his recent work,* that the government of cities is the one conspicuous failure of the United States. The deficiencies of the national government tell but little for evil on the welfare of the people; the faults of the state government, are insignificant, compared with the extravagance, corruption and mismanagement, which mark the administration of most of the great cities. It is a mistake, he tells us, to suppose that these evils are confined to a few great cities. In New York they have revealed themselves on the largest scale, they are gross as a mountain, monstrous, palpable. "But there is not a city with a population exceeding 200,000 where the poison germs have not sprung into a viperous life, and in some of the smaller ones down to 70,000, it needs no microscope to note the results of their growth." In another place, he says, "In great cities the forces that attack and pervert democratic government are exceptionally numerous, the defensive forces that protect it, exceptionally ill placed for resistance. Satan has turned his heaviest batteries on the weakest part of the ramparts." It can not be, however, that American cities are misgoverned because their governments are democratic. The government of the cities of Great Britain is now quite as democratic, and moreover, the government is better in those cities since the old close borough system was abolished, and the city councils were made really to represent the mass of the citizens; great improvements long needed have been made, and grave scandals have been comparatively few. Mr. Bryce attributes the misgovernment of American cities chiefly to the introduction of the party or spoils system as he calls it, into municipal affairs, and the great influx of foreigners little acquainted with the principles of self-government. He also says, "in great cities we find an ignorant multitude largely composed of recent immigrants untrained in self-government; we find a great proportion of the voters paying no direct taxes, and therefore feeling no interest in moderate taxation and economical administration, we find able citizens absorbed in their private businesses, cultivated citizens unusually sensitive to the vulgarities of practical politics, and both sets therefore specially unwilling to sacrifice their time, and tastes, and comfort, in the struggle with sordid wirepullers and noisy demagogues." All this has been said many times by American writers; but were this quite true, and were it the whole truth, reformation would be simply impossible; even the men who write in that strain do not, however, despair of finding means by which great improvement can be effected, and indeed Mr. Bryce admits that there has been much improvement in many respects within the last twenty years.

The changes which have met with most favour, and which have been adopted by some of the large cities as the most effectual means of putting an end to the misgovernment by which they were afflicted and disgraced, Mr. Bryce describes as the lengthening of the terms of service of the mayor and the heads of departments, so as to give them a more assured position, and diminish the frequency of elections, as in Philadelphia and St. Louis, the vesting of almost autocratic executive power in the mayor, and the restriction of the city legislature to purely legislative work, and the voting of supplies.

Mr. Seth Lowe, who was mayor of Brooklyn when such power was given to the mayor of that city, is one of the ablest and most zealous advocates of that system. He says:—

"Growing out of the town," it happened very naturally that the first conception of the city on the part of Americans was that which had applied to the town and the village local subdivisions of the commonwealth. Charters, were framed as though cities were little states. Americans are now learning, after many years of bitter experience, that they are not so much little states as large corporations. The aim deliberately was to make a

*Vol. 1, p. 608.

city government where no officer by himself should have power to do much harm. The natural result of this was to create a situation where no officer had power to do much good. Meanwhile bad men united for corrupt purposes, and the whole organization of the city government aided such in throwing responsibility from one to another. Many recent city charters in the United States proceed upon the more accurate theory, that cities in their organic capacity are chiefly large corporations. The better results flowing from this theory are easily made clear. Americans are sufficiently adept in the administration of large business enterprises to understand that in any such undertaking some one man must be given the power of direction, and the choice of his chief assistants. They understand that power and responsibility must go hand in hand from the top to the bottom of every successful business organization. Consequently, when it began to be realized that a city was a business corporation, rather than an integral part of the state, the unwillingness to organize the city upon the line of concentrated power in connection with concentrated responsibility began to disappear." The citizens of Brooklyn, Mr. Lowe asserts, are so well satisfied that their present charter is a vast improvement on any system which they had tried before, that no voice is raised against it. He also says, "It has had one notable and especially satisfactory effect. It can be made clear to the simplest citizen, that the entire character of the city government for two years depends upon the man chosen for the office of mayor. As a consequence, more people have voted in Brooklyn on the subject of the mayoralty than have voted there as to who should be the state governor or president. This is a great and direct gain for good city government, because it creates and keeps alert a strong public sentiment, and tends to increase the interest of all citizens in the affairs of the city." He also says that under this system the principle of defined responsibility permeates the city government from top to bottom.

This charter "went into effect" on January 1st, 1882. An Act of 1884 placed the absolute power of appointing all heads of departments, members of boards of commissioners, and others, in the hands of the mayor of New York. We have elsewhere described at some length the system of government in those cities. The charter of the city of Philadelphia, which separates the legislative from the executive power, placing the latter almost completely in the hands of the mayor, was passed by the Legislature of Pennsylvania in 1885, to go into operation on April 1st, 1887. In 1885 a new charter was given to Boston, which took the mayor out of the council, made him a separate estate, with power to veto any item in any ordinance or order passed by the council, make all appointments, subject to confirmation by the board of aldermen, and to remove any official for cause. In the same year an Act was passed establishing a board of police of three members, appointed by the governor in council. The charter of St. Louis, in pursuance of a special provision in the constitution of the State of Missouri, adopted in 1875, was prepared by a board of thirteen freeholders elected by the people of the city and county of St. Louis, and was adopted and ratified by the people at the polls in August, 1876. It provides that a great many of the officers shall be elected, but it extends the term of the mayor to four years, and gives him the right to nominate the members of all the more important departments and executive boards. In all these cases reform has been sought by separating the executive from the legislative functions, and placing all or nearly all executive authority in the mayor, who may himself be called to account for the use of his power, in some cases before the governor of the state, as in New York—in most cases before the courts. In some cases an effort has been made to improve the character of the council by the abolition of the ward system of elections. In Cincinnati, as has been stated, the executive and legislative powers have been as completely separated as in Brooklyn, but the executive power has been placed in boards of commissioners appointed by the state government. "Vesting almost autocratic executive power in the mayor," Mr. Bryce in his work describes as "a remedy of the cure or kill order," because, "if the people are thoroughly roused to choose an able and honest man, the more power he has the better; it is safer in his hands than in those of city councils. If the voters are apathetic and allow a bad man to slip in, all may be lost till the next election."

ENGLISH LOCAL GOVERNMENT ACT.

The most important measure affecting municipal institutions, passed by the Imperial Parliament since the Act of 1835, which abolished close corporations and made the municipal government of the cities and towns of Great Britain really representative, is the Local Government Act of 1888. It is, by no means, the perfect measure its admirers led us to expect, but it restores to the people, to a great extent, the control of county affairs, which had long been vested in the irresponsible Quarter Sessions and the justices out of session.

This Act provides that a council shall be established in every administrative county, as defined by the Act, and be entrusted with the management of the administrative and financial business of that county, and shall consist of the chairman, aldermen, and councillors.

The first council elected for any administrative county was, except when otherwise provided, elected for the county at large as bounded, at the passing of the Act, for the purpose of the election of members to serve in Parliament. But where two administrative counties were portions of one entire county, the boundary between two such counties was that existing for the purposes of the county rate. It was also provided that for the purposes of the first election, where an urban sanitary district lay partly within and partly without the boundary of a county, it should be held to be part of the county which contained the largest portion of the population of that district. The wapentake of the ainsty of York is declared part of the west riding of York. The county council has authority throughout the administrative county for which it was elected, the boundaries, subject to alterations, to remain as determined for the purposes of the election. Any difference as to the county which contained the largest portion of the population of a sanitary district, the local government board were empowered to settle. Directions are given as to the constitution of electoral divisions, in which regard for parish divisions and for the distribution and pursuits of the population is prescribed. Directions are also given as to the manner in which the local government board should deal with any borough in which the council are not the urban sanitary authority for the whole area of such borough and with other cases. The order of the board may constitute a borough into a county borough if its population exceed 50,000.

Borough commissioners were appointed under an Act of 1887. The Local Government Act provides that the reports of those commissioners shall be laid before the county councils when constituted and be taken into consideration by them, and it shall be their duty to make representations to the local government board respecting the boundaries of their county. If they represent that an alteration of the boundary of a county or borough is desirable, or the union of a county borough with a county for the purposes of the Act, or the union of any counties or boroughs, or the division of any county, or that it is desirable to constitute a borough having a population of not less than 50,000 a county borough, or that the alteration of an electoral division, or of the number of county councillors and electoral divisions is desirable, or that the alteration of any area of local government partly situate in their county or borough is desirable, the local government board may order an enquiry to be made, and after enquiry may make or refuse an order for the proposal contained in such representation. Or the local government board, if no such representation be made before November 1st, 1889, may order an enquiry, and thereupon issue such order in respect of any of those matters as they deem expedient. They may by such order divide or alter any electoral division. But if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of a county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament. When such an order alters the boundaries of a borough it may do whatever else as to the number of wards and their area, of the number of councillors and their apportionment such alteration renders necessary. A provisional order, uniting two county boroughs, may make them one borough and county for the purposes of the Act.

When a county council is satisfied that a proposal with respect to a county district that is not a borough, or with respect to a parish, for the alteration or definition of the boundary thereof, or its division, or its union with any other district or parish, or with respect to the transfer of part of a parish to another parish, or the conversion of any district or part thereof, if it is a rural district, into an urban district, or if it is an urban district into a rural district, or the transfer of the whole or part of such district to another, and the formation of new urban or rural districts, or the division of an urban district into wards, or an alteration in the number of wards, or of the boundaries of a ward, or of the number of members of a district council, or the apportionment of the members among the wards, deserves consideration, they may cause enquiry to be made and after having given notice in the locality and to the local government board, the education department, or such other government department as may be prescribed, may make such order as seems fit with regard to any of these matters. If it relates to the division of a district into wards, the number of the members of a council, or the apportionment of members, their order goes into effect immediately. But in all other cases the council of any district, or a sixth of the total number of electors in a district, parish or ward, may petition the local government board within three months to have such order set aside. If no petition be presented, or if the board determine that the objections made are not well founded, the board confirm the order, which is laid upon the table of both houses of Parliament as soon thereafter as possible.

"A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any change of boundaries, authorities or other matters made by the scheme or order as may seem expedient. A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned, form part of the county for all purposes, whether sheriff, lieutenant, *custos rotulorum*, justices, militia, coroner or other." Notwithstanding this, York, Lincoln, Sussex, Suffolk, Northampton and Cambridge each continues to be one county as far as it was one at the passing of the Act; the powers and privileges of any borough as respects the sheriff, lieutenant, militia, justices or coroner remain unchanged; and any borough which, when the Act passed, was part of a county for any purpose, continues to be part of that county for that purpose. The Act does not affect the holding of parliamentary elections in any way.

The order or scheme "may provide for the abolition, restriction or establishment or extension of the jurisdiction of any local authority in or over any part of the area affected by it, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, *custos rotulorum*, clerk of the peace and other officer therein, and with the costs of any such authorities, sessions, justices or officers as aforesaid, and may determine the status of any such area as a component part of any larger area and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area." It may make temporary provision for meeting the debts and liabilities of the various authorities, for the management of the properties, for regulating the duties and remuneration of the officers affected by it, for the transfer of writs and other processes, and provide for all matters that seem necessary or proper for bringing into operation and giving full effect to the order. If an alteration of the boundaries of a county is made an order for any of the above mentioned matters may be made by the local government board, but if petitioned against within three months the order cannot take effect until confirmed by parliament.

The administrative county in most cases coincides with the county as it has long existed for parliamentary and other purposes. But in a few large counties each riding is made an administrative county. In these counties a joint committee, composed of an equal number of members of each council, manage those affairs which concern the whole county and which could not be managed by the councils acting separately.

"The number of county councillors and their apportionment between each of the boroughs, which have sufficient population to return one councillor and the rest of the

county is such as the local government board determined." A borough returning one councillor is an electoral division. In a borough returning more than one councillor the council of the borough determined—in the rest of the county the quarter sessions determined—what the electoral divisions should be. In either case regard to the directions of the Act was required. In the county of London the number of councillors is equal to twice the number of members sent to parliament from all the parliamentary districts within the county.

The persons qualified to vote are, in a borough, the burgesses enrolled in pursuance of the Municipal Corporations Act of 1882, and the Acts amending the same; and elsewhere the persons registered as county electors. According to the Municipal Corporations Act of 1882, every person is qualified to be a councillor who is at the time of election qualified to elect to the office of councillor; but to remove certain disqualifications the Local Government Act provides that clerks in holy orders and other ministers of religion, and peers of the realm, having property in the county, and any one who is registered as a parliamentary voter in respect of the ownership of property in the county, are qualified to be elected, and to be members of the county council.

Constitution of the County Council.

The Act also provides that the council of a county, and the members thereof, shall be constituted and elected in like manner as the council of a borough divided into wards subject to the provisions of the Act. This means, amongst other things, that when the councillors are elected by the several districts they meet and elect a number of persons, equal to one-third of their own number, to be aldermen, and these aldermen so elected become members of the council. Councillors may be elected aldermen; if they are so elected their seats as councillors become vacant, and must be filled by new elections. The aldermen hold office for six years, one-half going out every three years. Aldermen and councillors sit at the same board. The council so constituted annually elects one of its members chairman, who becomes a justice of the peace by virtue of his office. The council may also elect one of its members vice-chairman. In the council of the county of London the number of aldermen is but one-sixth of the number of the councillors.

Powers of the County Council.

To the council so constituted the administrative business of the quarter sessions in respect of the following matters was transferred by the Act:

The making, assessing and levying of county, police, hundred and all rates, the application and expenditure thereof, the making of orders for payment of sums payable out of such rate, or out of the county stock or county fund, and the preparation or revision of the basis or standard of the county rate; the borrowing of money; the passing of the accounts of, and the discharge of the county treasurer; the control of shire halls, county halls, assize courts, judges' lodgings, lock-up houses, court houses, justices' rooms, police stations, and county buildings, works, and property, subject, as to the use of the buildings by the quarter sessions, and the justices, to the provisions of the Act respecting the joint committee of quarter sessions and the county council; the licensing, under any general act, of houses and other places for music or for dancing, and the granting of licenses under the Race Courses Licensing Act, 1879; the provision, enlargement, maintenance, management, and visitation of, and other dealing with asylums for pauper lunatics; the establishment and maintenance of, and the contribution to reformatory and industrial schools; "bridges, and roads repairable with bridges, and any powers vested by the Highways and Locomotives (Amendment) Act, 1878, in the county authority." The councils also fix, as the sessions formerly did, a table of the fees to be taken by the county officers, the clerk of the peace, and clerks of the justices excepted, appoint and remove all county officers except these, and determine their salaries, and the salaries of coroners, when payable out of the county rate. They divide the county into polling districts for the purpose of parliamentary elections, and appoint the places of elections, the places of holding courts for the revision of the lists of voters, and the cost thereof, and other matters to be done

for the registration of parliamentary voters. They provide for the execution of the acts relating to contagious diseases of animals, to destructive insects, to fish conservancy, to wild birds, to weights and measures and to gas meters, and of the Local Stamps Act, 1869. To the councils are also transferred the powers formerly exercised by the quarter sessions concerning all matters arising under the Riot (Damages) Act, 1886, the registration of the rules of scientific societies, and of charitable gifts, the certifying and recording of places of religious worship, the confirmation and record of the rules of loan societies—under the several acts relating to these subjects—“and any other business transferred by this Act.” Provision is made for transferring to the council, by order of the local government board, any powers, duties, or liabilities of the quarter sessions under any local act. Hereafter, when a vacancy in the office of coroner occurs the person to fill it will not be elected by the freeholders of the county as formerly, but will be appointed by the council, or by the joint committee of two councils when the district is situate partly in one and partly in another administrative county.

The county council have power to purchase or take over, on terms to be agreed upon, existing bridges that are not at the time county bridges, to erect new bridges, and to maintain, repair and improve any bridge so purchased, taken over, or erected. The powers of justices out of sessions, in respect to the licensing of houses or places for the public performance of stage plays, and in respect to the execution as local authority of the Explosives Act of 1875 are transferred to the county council.

“The powers, duties, and liabilities of quarter sessions, and of justices out of session, with respect to the county police, vest in and attach to the quarter sessions and the county jointly, and are exercised and discharged through the standing joint committee of the quarter sessions and county council.” The police are required to perform “such duties connected with the police,” in addition to their ordinary duties, as the quarter sessions or the county council may require. The joint committee, to which the regulation of the use of public buildings by the quarter sessions and justices, the control of the police of the county, the appointment of the clerk of the peace, and of clerks of the justices and joint officers, and the management of matters required to be determined jointly by the quarter sessions, and the council are entrusted, is composed of an equal number of justices and of members of the council, the number to be agreed upon by the two bodies, or in default of agreement, to be determined by a secretary of state. All the matters mentioned are referred to this committee and determined by it, and all expenditure which the committee determine to be required for the purposes of the matters above mentioned, the council are bound to provide for.

All main roads of the county are to be wholly maintained and repaired by the council, which, for this purpose, has the same powers as a highway board; but any urban authority may claim the powers and duties of maintaining and repairing a main road within the district of such authority, and obtain from the county council such annual payment towards the cost of the maintenance, repair, and reasonable improvement of such road as may be agreed upon, or as, in the absence of agreement, may be determined by arbitration of the local government board.

The county council may contract with a district council for the maintenance, repair, or other dealing with a main road, but it may not make any payment on account thereof until satisfied by the report of its surveyor that the work contracted for has been properly done. Any difference between the county and district councils respecting the work or payment may be referred to the arbitration of the local government board. All main roads and the materials thereof, and drains belonging thereto, vest in the county council, unless where an urban authority retain the powers and duties of maintaining and repairing any such road. The county council may contribute towards the cost of maintaining, enlarging, or improving any highway or public foot-path in the county, although the same is not a main road.

The local government board are authorized to make from time to time a provisional order transferring to county councils any such power, duties, and liabilities of Her Majesty's Privy Council, of a secretary of state, the board of trade, the local government board, or the education department, or any government department, as are conferred by or in pursuance of any statute, and as appear to relate to matters arising

within the county, and to be of an administrative character. This seems to mean that the council may thus be relieved from the necessity of obtaining the sanction of the several government departments which various statutes required the sessions and other local authorities previously existing to obtain in order to give effect to their by-laws and resolutions. The local government board is also authorized to "make an order, transferring to the council any such powers, duties, and liabilities, arising within the county, of any commissioners of sewers, conservators, or other public bodies, corporate or incorporate (not being the corporation of a municipal borough, or an urban or rural authority, a school board, or board of guardians) as are conferred by or in pursuance of any statute," provided that the assent, in the one case, of the government department or board, or of the secretary of state, and in the other, of the commissioners or conservators possessing that power be obtained, and that the provisional order have no effect until confirmed by parliament. Every authority having any power or duty to light the road in their district have now the same power and duty to light the main roads in their district. Any authority having power to break up a main road for the purpose of sewerage or otherwise, is bound to repair it to the satisfaction of the county council. The council, if not satisfied, may cause the repairs to be done, and charge the cost to such authority.

The county council are empowered to enforce the provisions of the Rivers Pollution Prevention Act within their county, and may contribute to the costs of any prosecution under that Act, instituted by another authority. The local government board may, by provisional order, constitute a joint committee of the councils of any counties, through which a river or specified part of a river runs, and confer on such committee all the powers of a sanitary authority.

A county council has power, without obtaining the consent of owners or ratepayers, to oppose bills in parliament, and to prosecute or defend any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the county, but it has no authority to promote a bill in parliament, or incur any expense in relation thereto.

A county council have the same power to make by-laws as the council of a borough have, under section 23 of the Municipal Act of 1882, which authorizes the council of a borough to make from time to time such by-laws as to them seem meet for the good rule and government of the borough, and for prevention and suppression of nuisances . . . and to appoint such fines, not exceeding, in any case, five pounds, as they deem necessary, for the prevention and suppression of offences against the same. Such by-law is not to be made unless at least two-thirds of the whole number of the council are present, and cannot come into force until the expiration of forty days after a copy thereof has been fixed in the town hall, or until the expiration of forty days after a copy thereof has been sent to the secretary of state. The by-law, or any part of it, may be disallowed by the Queen within the forty days. Section 187 of the Public Health Act of 1875 applies to such by-laws, and those made by a county council have no force or effect within a borough.

A county council may appoint one or more medical officers of health, and may enter into an agreement with a district council to render the services of such officer or officers available in the district; such officers are required to make periodical reports to the local government board, and supply copies thereof to the county council, and the council may make such representations as they see fit, respecting the sanitary condition of any district.

A county council may delegate any of the powers thus described to a committee of its own body, or to any district council in the Act mentioned, and may delegate to the justices sitting in petty sessions, the powers in respect to the licensing of theatrical performances, and in respect of the execution of the explosive Act, and the Act relating to contagious diseases of animals. The right of appeal to the quarter sessions against the basis, or standard for the county rate, or against that or any other rate, is expressly reserved by the eighth section.

The powers thus conferred on the county councils seem to be not quite as extensive as the powers which the quarter sessions formerly exercised. The quarter sessions still retain some of those powers; others they share with the county council. All the other

local authorities seem still to exist as before. In some cases, indeed, the local government board, whose powers of interference are very great, may transfer the powers and duties of minor local authorities to the council, but this cannot be done unless those authorities consent, and parliament approve of the transfer. Urban authorities, rural authorities, sanitary authorities, highway districts, and highway boards, boards of poor law guardians, and school boards continue to exist, and to exercise all the powers they possessed before the passing of this Act.

The Financial Arrangements.

For some years large amounts were paid out of the Imperial treasury, in aid of the local rates. This system of aid is now put an end to, and in lieu of it the revenue from all licenses granted in the several counties by the commissioners of inland revenue, and four-fifths of one-half the sum collected in respect of probate duties are paid to the county councils. The proceeds of the licenses, and of such part of the probate duty, the commissioners are required to pay into the Bank of England to the local taxation account. Penalties and forfeitures recovered under the Acts relating to license, are considered part of the proceeds of the duties. The amount collected in each county as duties on licenses is paid, under the direction of the local government board, to the council of the county. The power to levy the duties on any or all of the "local taxation" licenses may at any time be transferred to the county council by order in council, on the recommendation of the Treasury, and thereafter the councils and their officers will have the same power as to the issue and cancellation of such licenses, and the collection of the duties, and as to punishments and penalties connected therewith, as the commissioners of internal revenue now have. The sums paid in on account of the probate duty are to be distributed amongst the counties in proportion to the share which the local government board certify to have been received by each county during the last financial year, out of grants made in aid of the local rates. Exception is made as to South Wales and the Isle of Wight, in which toll roads existed until this Act went into operation. The sums received from those sources, the councils are required to apply to the payment of all charges connected with the collection or management—all amounts which the council are required by the Act to pay, in substitution for local grants, the amount contributed in respect of the costs of union (poor law) officers, and to the repayment to the general county account of the county fund, of the costs on account of general county purposes, for which the whole area of the county is liable to be assessed to county contributions. If any surplus remain, such proportion of it as the rateable value of the area of each quarter session borough exempt from contributing to any special county purpose, bears to the rateable value of the whole county, shall be paid to the council of that borough; any surplus still remaining shall be applied towards repaying to the proper special accounts of the county fund the costs on account of which the area of the county, exclusive of each township, is liable to be assessed to county contribution. If, after these payments have been made, there remains any sum to be disposed of, such sum is to be divided amongst the boroughs, not being quarter session boroughs, and towns that maintain their own police force; and if, after these payments have been made, there remains any excess, it is to be divided amongst the councils of other districts in the county.

The county councils are to pay to the guardians of poor law unions, wholly or partly within a county, such sums as the local government board may certify they are entitled to, in substitution for the grants towards the remuneration of teachers in poor law schools and for payments to public vaccinators. They also pay to the guardians the school fees for children sent from a work-house to a public elementary school, a sum equal to the amount paid out of the local grants to the registrars of births and deaths, and a sum equal to four shillings a week for each pauper lunatic chargeable to the Union. They pay to the council of a borough to which the maintenance of pauper lunatics is chargeable, a sum equal to four shillings a week for each, and to every local authority by whom a medical health officer or inspector of nuisances is paid, one-half his salary. They pay the salaries of the clerk of the peace and of the officers of the quarter sessions, and transfer from this fund to the county fund one-half the costs of

the pay and clothing of the county police ; and they pay to any borough maintaining its own police one-half the costs of such maintenance. The local government board determine what amount shall be paid in each case, and if the secretary of state withhold the certificate as to the efficiency of the police of any borough which would entitle it to the payment of half its cost, the amount forfeited by the borough is transferred to the general county account. After a certain period the county council must grant to the guardians of each poor law union the sums which the local government board certifies to have been expended during the previous year in salaries and allowances to officers, and on drugs and medical appliances. The account of the receipts and expenditures of this "local taxation account" is audited as a public account by the comptroller and auditor-general under such regulations as are made by the Treasury.

All the property belonging to the county, except the records of the court of quarter sessions, held by the quarter sessions, by commissioners or others became vested in, and all debts and liabilities of the county became debts or liabilities of the county council. The council have full power to manage, alter, enlarge, and with the consent of the local government board, to alienate any land or buildings vested in the council by "this section" or otherwise ; but they must provide such accommodation, rooms, furniture, books and other things as the joint committee of council and quarter sessions may determine to be necessary or proper for the due transaction of business ; and when the council sell any land the proceeds must be applied in such manner as the local government board sanction, towards the discharge of any loan or for any purpose for which capital may be applied by the council. The council may acquire, purchase or lease lands necessary for the purpose of their powers and duties, and may acquire, hire, erect and furnish such buildings as they find necessary. All costs incurred by the quarter sessions, by justices out of session, police officers, constables and others, in defending any legal proceedings taken in respect of any order made or act done in the execution of a duty, and all costs in criminal proceedings for which the quarter sessions or justices make an order are paid out of the general county fund.

The council must direct the accounts to be so kept that the receipts and expenditures for general county purposes and those for special purposes, that is on account of any portion of the county, shall be distinctly set forth.

If the money standing to the credit of the general county fund be insufficient to meet the expenditure for general county purposes, county contributions, to meet the deficiency may be levied upon the whole administrative county and be assessed on all the parishes. Contributions for special purposes may be levied in like manner on the parishes or districts liable. At the beginning of the financial year the council must cause an estimate of receipts and expenditures during that year to be prepared, and determine what amount shall be raised in the first six months and in the second six months. If at the expiration of the first six months it appears that the amount of the contribution estimated will be larger than is necessary or will be insufficient, the council may revise the estimate and alter the amount of contribution or rate.

A county council may, with the consent of the local government board, borrow on the security of any fund or revenue of the council such sums as may be required for consolidating the debts of the county, for purchasing land or erecting a building for county purposes, or for any permanent work or other thing which the council are authorized to execute or do, and the cost of which ought in the opinion of the local government board be spread over a term of years ; for making advances to any person or body of persons in aid of the emigration or colonisation of inhabitants of the county with a guarantee of repayment from any local authority in the county or the government of any colony ; and for any purpose for which the quarter sessions or the county council are authorized by any act to borrow. The consent of the local government board dispenses with the necessity of obtaining any other consent which may be required by any Acts relating to such borrowing. If, however, the total debt of the county, after deducting the amount of any sinking fund and adding the amount it is proposed to borrow, would exceed the amount of one-tenth of the annual rateable value of the rateable property in the county according to the basis for the county rate, the amount proposed cannot be borrowed, except in pursuance of a provisional order made by the

local government board and confirmed by parliament. A council may, however, without any consent of the local government board, borrow during the period fixed for the discharge of any existing loan such amount as may be required for paying off the whole or part of that loan, and if any part of such loan has been repaid otherwise than by capital money, the council may, on their own authority, borrow a sum equal to that so repaid. All money re-borrowed must be paid within the time fixed for the discharge of the original loan. Every loan must be repaid within such period not exceeding thirty years, as the council, with the consent of the local government board, shall determine in each case.

The county council may pay off every loan by equal yearly or half-yearly instalments of principal, or principal and interest combined, or by means of a sinking fund set apart, invested and applied in accordance with the Local Loans Act, 1875. The council may raise such money as they are authorized to borrow, either as one loan or several loans, and either by stock issued under this Act or by debentures or annuity certificates under the Local Loans Act, or by special mortgage in accordance with the Public Health Act, 1875; county stock may be created and dealt with in accordance with such regulations as the local government board may prescribe, subject to the approval of parliament.

The annual accounts of the county councils and of their officers are to be made up in the form prescribed by the local government board, and audited by the district auditors appointed by the local government board.

The council of a county borough in addition to the powers and privileges it previously enjoyed, received all those rights, powers, duties and liabilities, which elsewhere were transferred from the quarter sessions to the county council; for other purposes it continues to be part of the county in which it is situate. It receives a share of the amount collected as duties on licenses in the counties proportionate to the rateable value, as fixed by a joint committee appointed as the Act provides. It is bound to make the like payments in satisfaction of local grants, and the like grants in respect of the costs of the officers of unions and of district schools as in the case of a county council. Where it formerly contributed to the cost of building and maintaining a county lunatic asylum, it continues to contribute such portion as has been agreed upon or determined. If no separate commission of assize is directed to be executed in a county borough, it pays its share of the costs incidental to the assizes of the county; and so if the borough is not a quarter sessions borough, it pays its share of the costs of the quarter sessions of the county. If the borough had a separate police force, that may be continued or may be consolidated with the county force. All bridges and approaches thereto, or parts thereof, situate within the borough previously repairable by the county or any hundred therein, were transferred to the borough authorities. When the district of a county coroner is wholly situate within a borough, the coroner for that district is appointed by the council of the borough. An equitable adjustment respecting the distribution of the proceeds of the local taxation' licenses and probate duty grant, and all other financial relations, if any, between each county and each county borough within the county, may be made by agreement within twelve months. In default of the agreement, such adjustment will be made by commissioners appointed under the Act. In this, care must be taken that neither county nor borough be placed in a worse financial position by reason of the operation of this Act. Special provisions are made respecting quarter sessions boroughs, which are not county boroughs, and which contain a population of ten thousand or upwards; boroughs which have a separate commission of the peace, but are not county boroughs, whether they are quarter sessions boroughs or not; and quarter sessions boroughs having a population of less than ten thousand. In the quarter sessions boroughs the powers, duties, property and liabilities of the quarter sessions are transferred to the county council, as with respect to the quarter sessions of counties. The borough council retains all its powers as a local authority and an urban sanitary authority and its other powers, and may claim to retain the powers and duties of maintaining roads and bridges within the limits of the borough. It may require the county council to declare any road within its limits a main road, and in case of refusal, appeal to the local government board. In all other respects it is part of the county. Existing exemptions from taxation for special purposes continue, but the councillor who represents a district, any part of

which is so exempt cannot act or vote on any question involving expenditure, on account of which any parish or borough in his district is not to be assessed. In boroughs with a separate commission of the peace, the powers, duties and liabilities, respecting pauper lunatics, are transferred to the council of the borough. In quarter sessions boroughs with a population of less than ten thousand, the powers and duties respecting the provision, maintenance and management of asylums for pauper lunatics, and all powers regarding coroners, the appointment of analysts, reformatory and industrial schools, fish conservancy, and the powers under the Highways and Locomotive Acts are transferred to the county council. The borough remains an urban sanitary district. In other small boroughs, the powers and duties of the council respecting the police force of the borough, the appointment of analysts, and the execution of the contagious diseases (animals) Acts, the destructive insects Acts, and gas-meters, weights and measures Acts, ceased after "the appointed day."

The exceptions and "savings" are very numerous. The ridings of Yorkshire, the divisions of Lincolnshire, the divisions of Sussex, under the Act of 1875, the divisions of Suffolk, the Isle of Ely, and the residue of the county of Cambridge, the Soke of Peterborough, and the residue of the county of Northampton, are declared separate administrative counties, and provision is made for doing by joint committees composed of members of the several county councils, the business which could not well be distributed amongst the councils; special provisions are made respecting the holding of courts of assize in Manchester, and the liabilities of the hundred of Salford, concerning "every liberty and franchise of a county wholly or partly exempt from contribution to a county rate," and concerning the Cinque Ports and the Scilly Islands. The exceptional provisions can be understood in some cases only by those who are acquainted with the state of things existing in the county or borough when the Act passed.

The County of London.

The principal exception to the general provisions of the Act is the creation of the municipality, which is called the administrative county of London. The Metropolis outside and around the city proper extends over what were parts of the counties of Middlesex, Surrey and Kent. These parts are by this Act severed from those counties, and formed into a separate county for all purposes, non-administrative as well as administrative; provision is made for the appointment of a sheriff for this county in the usual manner, and for granting to it a commission of the peace and a court of quarter sessions: and it is declared that all enactments, laws and usages with respect to counties in England and Wales, and to sheriffs, justices and quarter sessions, shall so far as circumstances admit apply to this county of London. The jurisdiction of the court of quarter sessions and of the justices may be extended over the city proper under the great seal, whenever the mayor, commonalty and citizens assent thereto.

The number of the county councillors for this administrative county is double that of the members which the parliamentary boroughs of the metropolis are authorised by law to return to serve in parliament; each borough may be divided into districts, but so that the number of councillors elected for each shall be double the number of members of parliament it is entitled to send to parliament. The number of county aldermen must not exceed one sixth of the whole number of county councillors.

The powers, duties and liabilities of the quarter sessions of the several counties, so far as they relate to the parts now included in the county of London, are transferred to the council of the county as in other counties; and the property, debts and liabilities of the counties of Middlesex, Surrey and Kent, are to be apportioned between the districts formerly belonging to those counties situate within the metropolis and the districts situate without, as may be determined by agreement or by the decision of the commissioners.

A more important provision is that "there shall be transferred to the London county council, the powers, duties and liabilities of the metropolitan board of works, and after the appointed day that board shall cease to exist, and the property, debts and liabilities thereof, shall be transferred to the London county council, and that council shall be in law the successors of the metropolitan board of works." "If the county council borrow

for the purposes of the Act, they shall borrow in accordance with the Act relating to the metropolitan board of works." In other respects the general financial provisions of the Act apply to this county council also. If the London county council petition to that effect, the Queen in council may appoint a chairman and deputy-chairman of the quarter sessions, who shall be paid such salaries as are stated in the petition, and hold office during good behaviour, and the court may be held before such chairman or deputy alone. Separate courts of quarter sessions may be held at different parts of the county, at the same time, if the county council so decide and a secretary of state approve; such regulations respecting the holding of quarter sessions, their legal character and the mode of conducting business at them, as the council may make and the secretary may approve of, shall have the force of law when published in the *London Gazette*. The quarter sessions of the county are substituted for the general assessment sessions under the valuation (metropolis) Act, 1869.

The county council will pay to the guardians of the poor for every union wholly within the county, such sums as the local government board certify to be due in substitution for the local grants towards the remuneration of poor law medical officers, and the cost of drugs and medical appliances, and an amount equal to four pence per pay for every indoor pauper. The term indoor pauper as defined, includes all who are maintained in any public institution for relief, or who are boarded out at the cost of the union. To the guardians of unions partly within the county payments of the like character are made, in proportion to the rateable values of the part of the union within and the part without the county.

After the appointed day, the county council take the place of the managers of metropolitan asylums, and all the powers, duties and liabilities of justices out sessions in the metropolis, in regard to the licensing of slaughter-houses, and of cow-houses, and places for keeping cows are transferred to the county council. The subordinate local authorities continue to hold towards the council very much the position they formerly held toward the metropolitan board of works. The Act says, "the provisions of the highways and locomotive Act, 1878, with respect to main roads, as amended by this Act, shall extend to the metropolis in like manner, as if the expression 'urban sanitary districts' in that Act included, as respects the metropolis, the city of London, . . . and as if the commissioners of sewers or vestry or district board were the urban sanitary authority." It also provides that the common council in the city of London, and in any other part of the metropolis, the vestry or district board, shall be deemed to be a district council and an urban authority, within the meaning of the provisions of this Act with respect to main roads, and may accordingly claim to retain the power of maintaining and repairing a main road, . . . and such duties shall in the city of London be discharged by the commissioner of sewers."

An Act passed in the same session, (1888) authorises the metropolitan board of works to borrow in various ways, and for over a hundred various purposes, about six and a quarter million pounds. In some cases the loans authorised were portions of amounts which the board were previously authorised to borrow. The new loans authorised amount to about a million and a half pounds. The preamble to this Act, states that in the Act of 1875, "provision was made requiring that the borrowing powers granted to the board by parliament, should for the future be limited both in time and amount." The borrowing powers thus conferred, but with all the limitations, were transferred to the council of the county of London. The loans are authorised for the purposes of the fire brigade, for parks, commons, and open spaces, for bridges, artisans' dwellings, streets, main drainage and precipitation works; for loans to vestries and district boards; for the Thames tunnel; the enlargement of Hampstead Heath, Clissold park, Vaux Hall park, Brixton park, Chelsea Embankment, for the purposes of the Various Powers Act, and for streets."

The most important change made is the transfer of all the powers and duties of the metropolitan board of works, a body whose members were elected or selected in various ways and were practically irresponsible, to a council elected directly by and responsible directly to the ratepayers of the whole administrative county. Until last year, however,

no charge of malfeasance had ever been made against that board. Immense works were carried on under its control or guidance in a manner that seemed in every way satisfactory.

Some changes are made in the government of the city which, inasmuch as they serve to prepare for greater changes, may be deemed important. The city retains its peculiar modes of election and form of government, but it no longer elects the sheriff of Middlesex; the Act expressly provides that the sheriffs of the city shall not have any authority except in the city, and hereafter the appointments to the offices of common sergeant and judge of the city of London court will be made, not by the "court of common council" of the city, but by the Queen in council. Such of the powers, duties and liabilities of the court of quarter sessions and justices of the city "as would if the city were a quarter sessions borough with a population exceeding 10,000 be exercised by virtue of this or any other Act by the council of the borough *are* transferred to the mayor, commonalty and citizens of the city acting by the council (the common council), and such of them as would in the said case be by virtue of this Act exercised and discharged by the county council *ceased* and the county council *has* subject to the provisions of this Act, those powers, duties and liabilities within the city of London in like manner as within the rest of the administrative county of London." The provisions of the Highways and Locomotives Act of 1878 with respect to main roads, as amended by this Act are extended to the city as if the expression "urban sanitary district in that Act included the city of London, and as if the commissioners of sewers, or vestry, or district board were the urban sanitary authority." The common council has the power to make by-laws respecting the use of locomotives within the city, but if any difference is made by such by-laws between any main road maintained by the county council and the other roads in the city, such by-laws require the approval of the county council. The common council in the city and the vestry or district board in any other part of the metropolis may as urban authorities elsewhere claim to retain the power of maintaining and repairing a main road within their limits, and in such case have all such powers and duties of repairing, maintaining, improving, enlarging, and otherwise dealing with such main road as they would have if it were an ordinary highway repairable by them. These duties are discharged in the city by the commissioners of sewers. The payment of the costs of assizes and sessions is a general county purpose for which the parishes in the city may be assessed to county contributions.

The common council are entitled to receive from the county council in respect of each pauper lunatic the same amount as is required by this Act to be paid by any other county council to the council of a borough. "Where at the passing of this Act the metropolitan board of works or the quarter sessions of Middlesex are authorized to incur costs for any purpose, and the common council of the city are not liable to contribute to such costs, the parishes in the city of London are not, save as in the Act expressly mentioned, liable to be assessed to county contributions in respect of such costs, but this exemption does not extend to any costs incurred for the purpose of any powers, duties or liabilities of the quarter sessions or justices of the city of London which will be exercised and discharged by the London county council. The county council and the common council may agree for the cessation in whole or in part of any exemption under this section from assessment in consideration of the payment by the county council of a capital sum or of an annual payment, or of a transfer of property or liabilities, or of the undertaking by the county council in substitution for the common council of any powers or duties. The county councillors elected for the city cannot act or vote in respect of any question arising before the county council as regards matters involving expenditure on account of which the parishes in the city are not for the time being liable to be assessed equally with the rest of the county to county contributions."

The city still maintains and controls its own police force. The law respecting the police force of the metropolis, outside the city, remains unchanged.

Other Provisions.

The powers of the commissioners appointed to settle all financial questions between the councils of counties and of districts, that cannot be settled by agreement, are extensive.

Their award or order has the same force as if made by a judge of the high court of justice, and is not liable to be interfered with or questioned by, or in any court or elsewhere. The commission will cease to exist on December 31st, 1890, and after that disputes will be settled by arbitrators appointed by the local government board. The special provisions which modify the existing election laws in their application to the election of county councillors, are few, and comparatively unimportant. Concerning the proceedings of councils and committees it is provided that excepting in county boroughs all payments to the county fund shall be made to the county treasurer, and all payments out of that fund "shall, unless made in pursuance of the specific requirement of an act of parliament, or of an order of a competent court be made in pursuance of an order of the council signed by three members of the finance committee, present at the meeting of the council, and countersigned by the clerk of the council; and the same order may include several payments. Moreover all cheques for payment of moneys, issued in pursuance of such order, shall be countersigned by the clerk of the council or by a deputy approved by the council. Any such order may be removed into the high court of justice by writ of *certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing, with or without costs." It is further provided that every county council shall appoint a finance committee, and that no "order for the payment of a sum out of the county fund, whether on account of capital or income, shall be made by a county council, except in pursuance of a resolution of the council, passed on the recommendation of the finance committee, and subject to the provisions of this act respecting the standing joint committee. Any costs, debt, or liability exceeding fifty pounds, shall not be incurred except upon a resolution of the council, passed on an estimate submitted by the finance committee. The notice of any meeting at which any resolution for the payment of a sum out of the county fund (otherwise than for ordinary periodical payments), or any resolution for incurring any costs, debt, or liability exceeding fifty pounds is to be proposed, shall state the amount of the said sum, costs, debt, or liability, and the purpose for which they are to be paid or incurred.

Any council or councils, and court or courts of quarter sessions may appoint joint committees and delegate to them any powers which such council or court might exercise for the purpose for which the committee is appointed, except the power of making a rate or borrowing money. The members of any such committee, appointed by a county council, cannot be members of it for more than three months after any triennial election of councillors of such county council. A county council may make, vary, and revoke regulations respecting the quorum and proceedings of any of its committees.

The clerk of the peace of the county is appointed by the joint committee of the council and the quarter sessions, is clerk of the county council and, subject to the directions of the *custos rotulorum*, or of the quarter sessions, or of the council, as the case may require, and has charge of and is responsible for the records of the county. The office of clerk of the peace for the county of London and that of clerk of the county council are distinct. Special provisions are made respecting the appointment and duties of clerk of the peace in other counties. The county councils pay the salaries of the clerks of petty sessional divisions.

Bicycles, velocipedes and similar machines are declared to be carriages within the meaning of the highway Acts, and additional regulations for their use are made.

The Acts relating to lunatic asylums are modified as the changes in the local government system require. It is provided that where any matter is authorized or required by this Act to be prescribed, and no other provision is made declaring how the same is to be prescribed, the same shall be prescribed from time by the local government board. Provision is made respecting the application of the Central Criminal Courts Act to the county of London and to Middlesex, of the County Juries Act to the county of London, and as to the mode of making out and revising the list of parliamentary electors, in a district which belongs to one county for administrative purposes, and to another for the purpose of parliamentary elections.

It was found necessary to make provisions for the management of affairs during the transition period. These occupy nineteen pages of the "Reports." The first elections of county councillors were held in January. The councils do not assume control of county

affairs until April, but they are authorized to meet meantime using the proper public buildings for the purpose, and to make such preparations as may be necessary to prevent confusion and loss of time when they enter upon the discharge of their duties.

The transfer of such large administrative powers from such irresponsible bodies as the quarter sessions to an elective responsible county council is a change quite in accord with the spirit of representative government; but as effected by this Act it does not seem to simplify in any degree the system of local government in any part of England, except the county of London, and, to a smaller extent, the county boroughs. In most cases it adds another to the many boards, councils and authorities exercising powers of local government, and authorized to expend the proceeds of local taxation.

District Councils.

For the purposes of this Act certain existing councils are described as district councils. The Bill as introduced provided for the establishment throughout the country of district councils subordinate, in some respects, to the county councils; in other respects, exercising important powers independently. It was found necessary, in order to get the Bill passed, to strike out all the sections that related to the establishment of such councils. A Bill to establish district councils was then promised. Such a measure has been introduced this session. There does not seem to be much reason to expect that this Bill, if it pass, will do much to simplify local government in England. Scotland is also promised a Local Government Act.

Toll Roads.

Tolls are still taken on roads in the Isle of Wight and in South Wales. The Local Government Act will abolish these remnants of the old turnpike system. The twelfth section says, after the appointed day, tolls shall cease to be taken on any road maintained and repaired by the Isle of Wight high commissioners under the Isle of Wight Highways Act 1813 and 1883, and after such day the Highways and Locomotives (Amendment) Act 1878, as amended by this Act, shall apply to the Isle of Wight, and to every such road above mentioned in like manner, as if it were ceasing, within the meaning of the said Act, to be a turnpike road Until provision is otherwise made by parliament the repair and maintenance of the said roads shall continue to be undertaken by the said commissioners, and the county council for the county of Southampton shall pay such commissioners in respect of the said repairs and maintenance, and of the expenses of the commissioners, such sums as may be agreed upon, or, in case of difference, be settled by arbitration under this Act; and the provisions of this Act, with respect to main roads, shall apply as if the commissioners were a district council, who had undertaken the repairs and maintenance of such road.

The thirteenth section says, after the appointed day no county road rate shall be levied, and tolls shall cease to be taken on any road maintained and repaired by a county roads board in South Wales, in pursuance of the South Wales Turnpike Trusts Act 1844, and the Acts amending the same, and after such day the Highways and Locomotives (Amendment) Act 1878, as amended by this Act, shall apply to every county in South Wales, as if the highway districts in that county had been constituted under the Highways Act 1862 and the Highway Act 1864, or one of those Acts, and shall apply to every such road as above mentioned in like manner, as if it were ceasing within the meaning of the said Act, to be a turnpike road. On the appointed day the county roads board in every county in South Wales will cease to exist, and its property, debts and liabilities will be transferred to the county councils which become the successors of the county and district roads boards. The Act further provides that the county council of every county in South Wales shall have all the powers of a county roads board in a county under the South Wales Turnpike Trusts Act 1844, and the Acts amending the same, so, however, that nothing shall confer on the county council any power to levy any toll or county road rate.

This is, as nearly as circumstances would permit, the mode of abolishing the toll road system in Ontario, which we suggested in our first report, as the most prompt and satisfactory. In England and Wales the turnpike roads were not in any instance the property of private companies or individuals. They belonged to the public, and were managed in the public interest by trustees appointed under a special or general Act of parliament. They were also in most cases, if not in all, highways of such a character that there was no difficulty in dealing with them as main roads, to be placed under the charge of the county council, and making the cost of their repairs and maintenance a charge on the county funds. In Ontario it would be necessary to determine the amount of compensation to which private proprietors of such roads are entitled, and whether such compensation and the cost of maintaining and repairing such roads in each case should be borne by the county or by certain townships, or in part by the county, in part by certain townships, and in part by any cities and towns in the county.

County Systems.

The county system established by the English Local Government Act is in most respects inferior to the Ontario system, from which it differs so widely; much of the work to be done is still entrusted to bodies that are but partially responsible to the people. The powers of the county councils are limited, and in the exercise of those powers they are subject to many restrictions. The act empowered the local government board to determine how many councillors there shall be in each county, but there can be no doubt that in proportion to population and revenues and work to be done, the number is much smaller than in Ontario. The principle of making the accounts subject to a government audit, which was acted upon in respect of all the money-spending, rate-levying bodies previously existing, except the councils of boroughs, is incorporated in this act. The councils must submit their accounts to the district auditors appointed by the local government board and absolutely under its control. It is admitted by all the writers we have been able to consult, that this system of audit is thorough and satisfactory. The county systems of the United States, which we have described in outline, deserve consideration. In the New England States nearly all the municipal powers and duties are vested in the towns, and exercised by the people in town meeting assembled. The work left for county authorities is of comparatively little importance. In Massachusetts it has been found desirable to entrust that work to three commissioners, elected by the voters of the whole county for three years, one being elected every year, and to give to these commissioners some control over the affairs formerly managed by the towns exclusively. These commissioners are paid. In Pennsylvania and other states, in several of which the powers of the towns are not so great, county affairs are managed by commissioners. In several of the Southern States, the whole municipal work of the county is entrusted to what is really a county council, each of whose members represents a district of the county, although these representatives are called justices, and in criminal and other matters act as justices in the districts for which they are elected. In some of the Southern States the municipal work is done by county commissioners, and in one at least, Florida, these commissioners are appointed by the governor of the state. In the state of New York the towns have comparatively limited powers, and the county boards composed of the heads of the township municipalities, not only possess themselves large powers, but also control to some extent the action of the minor municipalities. In the states of the North-West generally the towns have powers larger than are given to the towns of New York, and the county councils are composed of the heads of the township municipalities and of representatives of the cities. In Ontario public opinion seems to favour an increase of the powers of the township councils, wherever that is possible, and a corresponding diminution of the powers and duties of the county councils. A reduction in the number of the members of the county councils and in the expenses, which are large as compared to the expenditure controlled by those councils, is generally desired.

BRITISH CITIES.

It may be profitable as well as interesting to learn what opinions an American student of municipal government formed of the present municipal system of Great Britain and of the manner in which it works in the great cities. The municipal reform Act of 1835, and the Act of 1882 made no great change in either the form or the powers of the city governments. They did little more indeed than make the council really representative and extend the franchise, except in the city of London, to all resident occupants of houses assessed above a small amount on rental. The governing body consists, as before, of a mayor and board of councillors and aldermen. A certain number of councillors are elected as representatives of the wards. These elect a number of others who are called aldermen and become members of the board. The board thus constituted elect the mayor, who presides at the meetings of the council. The mayor has no veto power, and in most respects his position is merely honorary. The councils manage the affairs of the city in the old fashioned way, through committees of their own body, assisted by officers appointed by the council, and dependent upon it. Recent legislation, such as "the artisans' and labourers' dwellings act," have placed within their reach means of making important improvements, of which several councils have taken advantage. The subjects of water supply, of sewerage, and of sanitation generally, have occupied much more attention during the last twenty or thirty years than was previously given to them, and the improvement in several cities of Great Britain in these respects has been very great. Mr. Albert Shaw, a gentleman who is described as having made various contributions to historical and economic literature, went to England "to study English institutions upon English ground." The *Pall Mall Gazette* in its numbers of November 24th and 27th, 1888, published a report of an interview with Dr. Shaw. The editor of the Johns Hopkins' university studies in historical and political science, thought this so important that it has been published in pamphlet form in connection with the studies. Mr. Shaw is reported to have said, "One thing which impressed me immensely is that civilization in the English towns may be said to be no more than twenty years old. Nearly everything that has been done in the shape of civilizing and improving your towns has been begun and carried through in the last twenty years. The result, however, is most gratifying. I confess that I was utterly unprepared from my American experience to find anything approaching to the perfect and elaborate system of local government which prevails in your cities."

The system has undergone little change since 1835, and the improvements which have been made within twenty years therefore cannot well be attributed to the system. Mr. Shaw, asked in what the British is better than the American system replied:—

"In three things; it is simpler; it is more efficient; and there is much more trust shown in the people." The manner in which the council and mayor are elected, he regarded as very simple. The election of one-fourth of the members of the council called aldermen, by the three-fourths called councillors, who are elected by the people, does not seem either simple or rational. He described the mayor as the creature of the council, and simply the ornamental head of the governing body, and this also he approved of. The custom which prevails in many parts of the United States of placing the police under the control of special commissions and of appointing special commissions 'whenever any important subject comes up,' he spoke of as peculiarly American. He did not seem to know or to remember that the system which he so much admired in England, is essentially the same as that which existed in many cities of the United States not many years ago, and which in those cities failed so utterly, because it was not suited to the genius or the circumstances of the people. The mayor was in these, as in the British cities, merely the chairman of the council and ornamental head of the governing body; in the council the legislative and executive functions were combined, and the executive functions were exercised through committees of the council. Mr. Shaw further said:—"In America the local authority not having the same large range of power which belongs to your municipalities, does not attract to itself the best kind of men; second and third rate men, many of whom are not free from suspicion of corruption, are elected, the more influential citizens feeling that it pays them better to submit to a little cheating and slovenliness in local administration rather than

waste valuable time in looking after the small share of local business which falls to a municipal body." It is quite true that in the American cities business men of good standing do not often obtain or seek seats in the city councils, and that to this fact is due much of the misgovernment of which so many cities complain; but it seems absurd to say that this is because the municipalities have not as much power as in Great Britain.

Dr. Shaw did not state in what the powers of British municipalities are greater, and it is notorious that American city councils were most corrupt when they possessed and exercised all the powers legislative and administrative of the city government. The statement that the people are more trusted where they are not allowed to elect their mayor directly, or even all the members of the city council, than they are where they elect all the members of the council, the mayor, and several of the chief civic officials is almost incomprehensible. Legislative meddling in municipal matters is carried farther in some American States than in England, and the raising of such issues as prohibition and high or low license has perhaps had some such effect as Mr. Shaw stated.

Although he had visited Birmingham, Manchester and Edinburgh, Dr. Shaw admired the civic government of Glasgow most. He was immensely impressed with it. He had no expectation of finding in an English-speaking country so perfect an example of civic administration. He would not say that it is an ideal city. There are too many people still crowded in the slums, and a walk along the quays is a very disagreeable experience, because the sewers still run straight from the houses and streets to the Clyde. Dredges are constantly employed in removing the sludge to keep the harbour clear. The banks are foul and the odor is offensive. If timely precautions had been taken the overcrowding might have been prevented. Now earnest efforts are made to remedy it.

He admired the pulling down of unhealthy tenement houses and the scattering of their inhabitants, the placing of public lamps in the passages and corridors of the large tenement houses, the establishment of municipal lodging houses in which thousands are comfortably accommodated, of public wash-rooms and of a model free hospital outside the city, to which all who become ill of an infectious disease, whether they are rich or poor, are, as he said, packed off at once. Extraordinary care, he said, is taken by the authorities to look after the interest of the poorer classes. It is quite wonderful and without precedent in his American experience. Then a grand system of main sewers, which will intercept the sewerage of the city and carry it far down the river to be discharged, is projected. The city owns its own gas and waterworks, and derives a large revenue from its street railways, while securing an exceedingly cheap and good public service. The streets, as in other large British cities, are much cleaner than the streets of American cities. Now, the system under which all that filled Dr. Shaw with admiration has been done, is essentially the same as that of other cities of Great Britain, essentially the same that has existed in all the cities of Great Britain since 1835, essentially the same that broke down years ago in many cities of the United States. Perhaps Mr. Shaw accounted for what he admires in Glasgow, when he said "the whole people through their elected representatives look after the affairs of the whole of the community, with an ability and a vigilance and a public spirit that are simply admirable." How to secure ability, vigilance and public spirit in the government of our cities is the problem we have yet to solve on this continent. We might better have been helped to a solution if Dr. Shaw had told us why those high qualities were not in active operation in Glasgow even twenty or thirty years ago.

The sewage, farm and filtration works at Birmingham seemed to Mr. Shaw the most perfect of the kind that he had seen, and Manchester "takes the palm" for the rapidity and efficiency with which refuse and garbage are cleaned from the streets.

The lessons he learned from all he saw are: first, simplify your administration; secondly, trust the people; thirdly, give the municipality plenty to do so as to bring the best men to the work; fourthly, keep all monopolies of service in the hands of the municipality, regarding the supply of gas and water and the letting of the use of the streets to tramway companies as very promising sources of revenue; and lastly, use the authority and influence of the municipality in order to secure for the poorest advantages in the shape of cheap trams, healthy and clean lodging, baths, wash-houses, hospitals, reading

rooms, etc., to such an extent at least as when, in a given case, private enterprise shows itself inadequate to do what the welfare of the community requires should be done.

Dr. Shaw evidently does not make sufficient allowance for the great difference in the circumstances and conditions of British and American cities. He spoke of the independence and freedom of action of British municipalities and their freedom from legislative intermeddling, as if he did not know that every by-law must be submitted to the Queen in council for approval and may be disallowed, that every city and town council must account for its receipts and expenditures to the local government board, and that no council can purchase, alienate or sell lands or borrow money, or carry out any important financial arrangement without permission of the Treasury.

In other Countries.

Paris was for many years considered the model city. The streets were the best and cleanest, its system of sewers the greatest and finest, its public grounds the most beautiful, its police the most efficient, and Louis Napoleon, for strategic reasons, swept away all the slums. Now Mr. Ely, an American publicist who has written much on taxation in American cities and kindred subjects, asserts that Berlin is the best governed city in Europe. By this he must only mean that the results of the city's government, as manifested in its streets, sewers and the general condition of the city, are best.

It can scarcely be true that he regards the system which produces such results as better than all others. The streets, sidewalks, and bridges are in magnificent condition, and are swept clean every night; the system of sewers is splendid; the tramways are in fine order, and are admirably managed. Every public service works faultlessly. The school system is excellent beyond all others. The police, indeed, are organized and controlled by the Prussian government, but then the city pays the cost. This high degree of excellence has been attained, it is said, since the royal government, some fourteen years ago, surrendered to the government of the city the complete control of its own affairs. We described briefly in our first report the system of government existing in Berlin. What there is in that system which a free country should adopt or imitate, it would be difficult to tell. The government of Prussia is a military despotism which wears the robe of representative institutions merely as a disguise and very loosely. The government of Berlin is the fitting offspring of such a system. The mayor, virtually appointed by the government, has great and almost arbitrary power, receives a salary such as in Germany is considered very large, and holds office for twelve years. A deputy mayor relieves him of the more disagreeable work; 126 citizens are elected to form the council, the franchise being about as liberal as in Canadian cities. These elect thirty-two persons, who form what is called the magistracy. Fifteen of the thirty-two hold office for twelve years, are paid high salaries, and under supervision and control of the mayor, are the acting executive. The others hold their seats for six years. A portion go out each year. The German military system has not yet become corrupt, as all autocratic military systems do sooner or later, and the strict economy, the rigid discipline, and the compulsory fidelity to duty, which distinguish the army and the general government, tend, no doubt, to secure in civic affairs results adequate to expenditure. Indeed Berlin is little else than a great permanent military encampment, in which strict discipline is rigidly enforced. Then it should be remembered that labour is much cheaper or money much more valuable in Berlin than in England, the United States or Canada, and in a comparison of expenditures or taxation this should always be taken into account. It should be remembered also that because the population are crowded into houses of great height, closely-set, Berlin has fewer miles of streets, pavements, gutters, sidewalks, and sewers to construct and keep in order than any city of a half or a third of its population on this continent. It may be that we could learn from Berlin how streets and sewers and other works can best be constructed, how waste of money can be prevented, how officials can be made to do their whole duty. But for aught else the cities of this continent will not look to Berlin.

In an article published in the February (1889) number of *The Contemporary Review*, Mr. F. S. Stevenson, M.P., describes what the municipal government of the French

commune has been at various times, what it now is, "the capacity exhibited by the commune for a certain degree of self government and the persistency of its existence," and states that, of all the institutions which exist in France, the commune is that which rests on the deepest and most solid foundation, possesses the most enduring character, and is most intimately connected with the interests, feelings and occupations of the people at large. Changes, it is true, have been made in its constitution. Even before the French revolution, the system of open voting had been replaced by the establishment of elective councils; and since that day it has been its fate at one time to be endowed with powers inordinately large, and at another to be kept in dumb subservience to the central authorities, until successive reforms culminating in the organic law of April 5th, 1884, rendered its voice articulate and effective. Amid all these vicissitudes, however, it maintained its existence unimpaired; and although the revolution was able to substitute new-fangled departments for time-honoured provinces, all attempts to merge the communes in wider areas were of no avail in the face of the strenuous resistance offered by popular sentiment. Mr. Stevenson argues from all this that, in order to create sufficient interest in any scheme of local self-government that may be established in England, "the smallest areas should be permeated with local life and local energy, and that every man should have a direct and equal share in the management of the affairs of his own immediate neighbourhood in which he is most deeply interested and with which he is best acquainted." He thinks, however, that when district councils are established in England, as is now proposed, a system more worthy of imitation may be found in some of the cantons of Switzerland. In the Canton de Vaud, according to the law as amended and consolidated in 1885, there is a curious blending of what may be called the town meeting and the representative systems. "Every commune in the canton has a municipality composed of a syndic, or mayor, and a certain number of municipal councillors. It is responsible, in the case of communes of less than eight hundred inhabitants, to a general assembly consisting of every active citizen who has resided within the limits of the commune for more than three months; while, in the case of communes of more than eight hundred inhabitants, as well as in others below that figure for which the necessary authorization has been obtained from the cantonal Council of State, the municipality is responsible to a communal council having from forty-five to a hundred members which is elected every four years by the general assembly. Thus "in the larger communes the people delegate to a representative body the sovereignty which in the smaller communes they exercise in their own corporate person. . . . In both cases the municipality fills the functions of an executive."

PROGRESS IN MUNICIPAL GOVERNMENT IN NEW BRUNSWICK.

Commissioners were appointed recently, under an Act of the Legislature of New Brunswick, to enquire and report with a view to the union of the cities of St. John and Portland. Their report was submitted to the councils of the two cities towards the end of January. In both these cities the construction, extension, and management of the water works and of the whole system of sewerage and drainage are under the control of a board of three commissioners, of whom the council of the city of St. John appoint two, including the chairman, and the council of Portland one. In both cities, the Provincial government appoint the police magistrate. In St. John, the Provincial government appoint the chief of police, by whom the policemen are appointed and dismissed. In Portland the appointment and control of the police are vested in three commissioners. In each of those cities by-laws passed by the council, of which the mayor is chairman, are subject to the approval or disapproval of the Lieutenant-Governor in Council. The council imposes taxes and makes appropriations, by resolution, within the limits prescribed by several Acts of the Legislature. They have no power to borrow, unless when such power is given by special legislation. The control of the harbour and the ownership of all land below low water mark are vested in the corporation of the city of St. John. All acts of administration other than those relating to water supply and sewerage are performed by the council in each city, either directly or through committees. The city of St. John, besides its police court, has a city court for the trial of small civil suits, presided over by the

city clerk and one of the aldermen, and held once a week. Civil jurisdiction was conferred on the police magistrate of Portland some years ago. The commissioners recommend that the consolidated city be divided into thirteen wards, which shall each elect two aldermen, and that the council, so elected, be presided over by the mayor, elected by the city at large. So far the proposed system would be essentially the same as the present. But the evils which invariably arise in all the cities of this continent from the union of the legislative and executive functions in the council, and from the system of entrusting the management of city properties and revenues, and the immediate control of expenditures to committees of the council have long been complained of in those cities, and the commissioners now purpose a reconstruction which, whatever may be the objections to it, would certainly be a decided departure from the old system. They perceive the necessity of placing under control of one person street work of every kind, and of having at the head of each department a competent person bound to devote his whole time and attention to its duties and responsible for their proper discharge. The paid chief of a department could scarcely be held responsible, however, for the decision and acts of a board composed of a number of those who appoint him, and who could any day remove him. The commissioners recommend that :—

“The administration of the fiscal, prudential, and municipal affairs, and the whole government of the city be vested in the council, which shall be composed of one principal officer, who shall be called the mayor, and of two aldermen elected for each ward. The mayor and aldermen to be elected annually. The qualification for mayor and aldermen and the civic franchise shall be the same as now existing in the city of St. John. There shall be a treasury department, a department of public works, a department of public safety, and a harbour department ; each of which departments shall consist of a board of not less than five or more than thirteen members, to be presided over by a salaried officer appointed by the council (such officer or chairman shall devote his whole time exclusively to the business of the city), the other members of the board to be chosen annually from the council. The treasury department shall be presided over by the chamberlain of the city. All taxes and other rates, and all moneys from whatever source on account of the revenues of the city, shall be paid into the department and disbursed by order of council. The department of public works shall have control over streets, sewerage, water, and light, and such other services as may be determined by the council. The department of public safety shall have control over the police, fire department (including salvage corps), the market and health. The harbour department shall have control over the harbour, wharves, slips, fences, and all other matters appertaining thereto or connected therewith. The council shall appoint such standing committees as may be necessary for the management of other civic matters. There shall be a board of assessors of taxes, consisting of not less than three persons, not being members of the council, one of whom shall be chairman, and shall, as well as the chief clerk of the board, hold office during the will and pleasure of the council, the other members of the board shall be appointed annually. The board of assessors of taxes shall levy and assess all city rates and taxes, and such other assessments as the law directs. The salaries and wages of all civic officers and employés shall be fixed from time to time by the council.”

“There shall be one police magistrate to preside over the police court of the city, who in addition to his duties as such magistrate shall preside over the civil court of the city of St. John. There shall also be one chief of police. There shall be one common clerk, one recorder and one chamberlain, and such other officers as the council shall find necessary to carry on the business and affairs of the city. The police magistrate and chief of police shall be appointed by the lieutenant-governor in council. All other officers and employes shall be appointed by the council. There shall be a police court and a civil court. The civil court shall have the same jurisdiction as is now given to the city court of St. John by chapter 53 of the consolidated statutes. It shall be presided over by the police magistrate, as herein before mentioned, instead of an alderman and common clerk, as now provided by law.”*

*At an election held some weeks ago, the two cities approved of the proposed scheme by large majorities. An Act of the Legislature has since been passed to give effect to the decision of the ratepayers ; in this the scheme proposed by the Commissioners was somewhat modified.

A COMPARISON OF THE POWERS UNDER OUR MUNICIPAL ACT AND THOSE GRANTED UNDER CHARTERS OR STATUTES ELSEWHERE.

A strict comparison of the powers given to the municipal governments of cities in the United States by general laws or special charters with the powers given to the municipal governments of the cities of Ontario by our municipal laws is difficult, so great is the variety of legislation on this subject in the several states of the Union, and so essentially different are the municipal systems in many of the states. In the New England states great importance is still given to the township municipality. Many of the cities still exercise a great part of their municipal powers as towns, and where special charters exist, they in many cases do little more than create boards of aldermen or councillors empowered to do, as representatives of the people, what, in the towns, the people themselves in town-meeting assembled do directly. In some states, much of the more important work, such as the assessment and collection of taxes, is done through the county authorities. In others, as for instance Vermont, the powers of the county government are limited to the erection, care, and maintenance of the court house, gaol, and other county buildings, and to providing what may be necessary to enable the county courts to do their work. Some states, as Massachussets for example, make general provisions for the municipal government of cities in many acts of the legislature, and also grant special charters. In Illinois, Wisconsin, and other states, the tendency is to substitute general for special municipal legislation, and facilities are afforded to cities having special charters to adopt the general system, which the legislatures manifestly prefer. In others, as in Connecticut, a few years ago, special charters seem to be preferred, and but scant allusion is made to the municipal government of cities in any of the general laws. The powers conferred and the duties imposed upon one set of municipal officers in one state are sometimes conferred and imposed upon a different set of officers in another. Even the title of the officer or the person acting in a representative capacity is not always the same in every state.

Careful enquiry, however, shows that in all that relates to the acquiring and holding of property for public purposes ; to the construction and maintenance of public buildings ; to the assessing, levying, and imposing of taxes for city purposes ; to the establishing, opening, making, extending, paving, lighting cleaning, and repairing of streets, as works to be paid for by general or special assessment ; to the making, extending, repairing, and cleaning of sewers ; the establishment and control of public markets, and the erection of market buildings ; to the construction and management of public docks and wharves, and the levying of wharfage ; to the establishment and control of ferries ; to the regulation and control of harbours, the construction and management of waterworks, or gas works, and street railways ; to the licensing and control of theatres, shows, billiard rooms, and other places of amusement ; to the licensing and control of livery stables, hackmen, carters, and draymen, and to regulating the rates at which they may claim remuneration for their services ; to the licensing of hawkers, pedlars, and others ; to the licensing and control of places in which meat, provisions, and poultry may be sold ; the inspection of provisions, the regulation of the weighing and measuring of coal, wood, and other articles of merchandise, the control of the location and management of factories in which business dangerous or offensive is carried on ; the control of the use of the streets ; the making of provision for the protection of property from fire, and for the preservation of the public health, and in all that relates to the prevention and suppression of immorality, drunkenness, and disorder, and the repression of riots, the municipal authorities of the cities of Ontario have as much power as is given to the municipal government of any of the cities of the United States.

Take for example the great city of New York. The powers of the city council to make by-laws, as stated in the charter of that city, are, with the exceptions which we shall hereafter describe, no greater than those given to the councils of Canadian cities. The general powers of the New York Council are "to make, continue, and modify and repeal such ordinances, regulations, and resolutions as may be necessary to carry into effect any and all of the powers now vested in and by this act conferred upon the corporation, and to enforce obedience to such ordinances and the observance thereof by ordaining

penalties for each and every violation thereof." The powers which are thus to be carried into effect are almost precisely such as are given to our municipalities. In some respects the powers of the New York city council are extremely limited.

The municipal government of Philadelphia is organized under a general act, several of the provisions of which, however, apply to that city alone, as a city of the first class. The powers of city councils, as stated in detail, do not differ materially from those given to the governments of cities in Ontario.

This may be said also of the powers given by special charters to the city governments of New Haven, Boston, Savannah, St. Louis, Louisville, and other cities.

In the general acts of Illinois and Michigan, the powers of city councils are stated in minute detail, but with the exceptions already referred to, they do not exceed the powers given by our municipal laws to the municipal councils of the cities of Ontario.

The powers given to city councils, although essentially the same, differ in some matters of detail, and the mode of carrying them out varies considerably. In some cities, the council have not only the power, as in the cities of Ontario, to prescribe how chimney flues and party walls must be built, but also what the character of the buildings to be erected shall be, and what materials shall be used in their construction. In some cities the council may, by a two-thirds or three-fourths majority, decide, notwithstanding the objections of the property owners, that certain local improvements shall be made, and the costs assessed on the properties abutting or contiguous. They can also order that the cost of repaving or repairing streets, the making of sidewalks and other improvements in public thoroughfares, be charged to the owners of property abutting, or be paid for out of the general revenues, or be charged partly to one and partly to the other. The mode of determining the damage done to individual property owners in carrying out improvements, local or general, and of estimating the benefits, is different in different cities; but the principle in all is that they be determined or estimated by a competent, impartial tribunal after all the evidence which the parties interested choose to produce has been heard.

The power of city councils to legislate, although as extensive as is thought necessary for all municipal purposes, is in all cases strictly limited. The power of city and other councils to incur debt is also invariably limited. The constitution of the state in many cases sets the limit. The constitution of Michigan, for instance, enacts that "the legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credits." The general Act, relating to cities, states* the various purposes for which a city council may impose taxes, and provides that the aggregate amount which it may raise in any one year shall not exceed one and one-quarter per cent. in cities having a population not exceeding 6,000; one and one-half per cent. in cities whose population exceeds 6,000, but does not exceed 9,000; in cities exceeding 9,000, but not exceeding 14,000, one and three-fourths per cent., and in all other cities two per cent. on the assessed value of the real and personal property. The council may, besides, impose a tax of one-quarter per cent. for repairing and cleaning streets, and a further sum, not exceeding three mills on the dollar, to provide the interest and sinking fund of the funded debt of the city. Special assessments, not exceeding five per cent. of the assessed value of the property, may also be raised for local improvement in special assessment districts. In Massachusetts, an Act of the legislature provides that, except in certain cases stated, "no city or town shall become indebted in any amount which exceeds three per cent. of the last preceding valuation for the assessment of taxes of taxable properties therein." No debt can be incurred unless authorized by a two-third vote of all the members of both branches of the city council. Debts for water supply may be in excess of the limit prescribed, and may be payable in thirty years. Debts for the construction of sewers may be payable in twenty years. All other debts must be payable in ten years. In all cases a sinking fund must be provided, sufficient to pay off on maturity all debts not payable within ten years. The power to impose taxes, and the mode of assessing and collecting, are the same in cities as in towns, and the limits are similar. In Minnesota the

* Chap. 26.

general law relating to taxes fixes the maximum rate which counties, cities or towns may impose, and the constitution provides that they have power to collect only what the law authorizes. The power to incur debt is also limited. The constitution of Illinois provides that the general assembly may vest in the corporate bodies of cities, towns and villages authority to assess and collect taxes; but no city or other municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per cent. of the value of the taxable property, to be ascertained by the last assessment, for state and county purposes. The general Act, relating to the assessment of cities, villages and towns, provides that "the taxes levied for one year, exclusive of the amount levied for the payment of bonded indebtedness or the interest thereon, shall not exceed the rate of two per cent. upon the aggregate valuation of the property subject to taxation, as equalized for state and county taxes of the preceding year." In the State of Ohio, comparatively small part of the work in cities is paid for by a general tax, but limitations are set in all cases to the amount of taxation. In Louisville, Kentucky, the maximum amount that may be levied for the purposes of each department of the city service is fixed by the charter. In Pennsylvania, the constitution provides that the debt of the county, city, borough, township or school district, shall never exceed seven per cent. on the assessed value of the taxable property therein. In some states, the electors may, at an election held for the purpose, authorize an increase of taxation or of debt, beyond the limit to which the municipal council is authorized to go, by its own authority; but there is a limit to the powers of the electors in such cases. The charter of the city of New York provides that the common council shall have no power to impose taxes or assessments, or borrow money, or contract debts, or loan the credit of the city, or take or make a lease of any real estate or franchise, save at a reasonable rent, and for a period not exceeding five years, unless specially authorized so to do by Act of the legislature. The latest amendment of the charter of the city of Boston limits the rate of taxation to \$9 on every \$1,000 each year, exclusive of the state tax and the sums to be raised on account of the city debt; and the amount of indebtedness that may be incurred, to two per cent. on the average valuation of the preceding five years. In Cincinnati, the board of public affairs, and other boards, prepare the estimates, and submit them to the city council, which approves, rejects or amends, as a majority of its members think proper. The estimates and rate of taxation, if approved of by the board of public affairs, are then submitted to the board of tax commissioners, who make such reductions from the rate of taxation to be levied as, in their opinion, circumstances demand or justify.

In Great Britain, the purposes for which municipal councils may levy and collect taxes are carefully defined. Limits are set to the borrowing powers, and restraints are imposed upon them. In the Local Government Act of 1888, the purposes for which a county council may borrow money are expressly stated. The consent of the local government board must be obtained before a loan can be effected, even for any of these purposes, and when the existing debt and that which is proposed together exceed ten per cent. of the assessed value of the real estate of the county, the local government board can only make a provisional order authorizing the loan, which must be approved of by parliament before it can have effect.

The matters in which the municipal councils of cities of the United States possess powers not given to the councils of the cities in Ontario may be briefly stated.

The cities of the United States are required by law to provide for the support, entire or partial, of all paupers, and are empowered to erect buildings in which paupers may be cared for. A law of settlement is the complement of this. In Ontario, the city governments are authorized to aid charitable institutions, but a poor law system of any kind appears to be held in general abhorrence.

In the cities of the United States generally, the licensing of taverns and saloons as well as the regulation of their number is given to the municipal councils or to municipal boards as in New York, and the revenue derived from the licenses goes to the city treasury. A different system of dealing with this difficult matter is preferred in Ontario.

The manner of appointing, regulating, and controlling, the police and fire departments, is not the same in all the cities of the United States, but management by a board is generally preferred. The mode of appointing or electing such boards is scarcely the same in any two cities. In Cincinnati, the boards are appointed for a limited period by the governor of the state. A similar system was followed in New York for some years.

In the general Acts of Illinois, Michigan, Massachusetts, and other states, the councils of cities are authorized to provide for the inspection and sealing of weights and measures, and to enforce the keeping and proper use of weights and measures by vendors. In Canada, the Dominion Parliament has the exclusive power to make laws respecting weights and measures.

In the Illinois and in the Wisconsin general Acts, it is provided that the councils of cities, shall have power to provide for and change the location and grade of the street crossings of any railway track, and to compel any railway company to raise or lower their railroad track, so as to conform to the street grades which may be established by the city from time to time, to construct street crossings in such manner and with such protection to persons crossing thereat as the councils may require, and to keep them in repair. The councils may also require and compel railroad companies to keep flagmen and watchmen at all railroad crossings of streets, and to give warning of the approach or passage of trains thereat, and to light such crossings during the night; and may regulate and prescribe the speed of all locomotives and railroad trains within the city, such speed not to be required to be less than four miles an hour. The councils have authority to impose penalties for violations of their by-laws on these subjects. They have also power to compel any railroad company to make and keep open any drains, sewers or culverts, that may be necessary along their line. In other states, the consent of the county authorities must be obtained before a railroad can be finally located. In Pennsylvania, the councils of cities are only authorized to make arrangements with railroad corporations as to changes of location and of grades, the management of crossings and such other matters, probably because the railway laws are held to provide sufficiently for the public safety and convenience. In Louisville, and probably in other cities, railways passing through the city must obtain the right of way from the city council, and on such terms and conditions as the council sees fit to impose in the interest of the citizens. In some cities, the councils have ample power to regulate and control the construction of telegraph and telephone systems. In Massachusetts, any town (township), may construct lines of electric telegraph for its own use, and authorize private persons to construct telegraph lines for private use along the public ways, and may make reasonable regulations for the erection and maintenance of all telegraph and telephone lines within the town. In all the United States, the duty of establishing, maintaining, and regulating the public schools, rests chiefly upon the municipal authorities.

Special charters do not give greater powers than are given by general Acts, except in a few cases, and as to matters purely local and exceptional in their character.

Within a few years, several of the large cities of the United States have endeavored to effect the reformation of their municipal government, which had become absolutely necessary. In no case, however, was an increase of the legislative power of the city council regarded as the means of putting an end to the jobbing, corruption, waste, oppressive, taxation, and inefficient administration, of which the people of those cities complained. It was felt that although amendments of the charter or the general laws under which the councils acted may be found necessary from time to time, the powers of the municipal governments on the whole were ample, and the real cause of complaint was that those powers were not properly used. The councils in most cases determined what work should be done, what taxes should be levied, and what expenditures should be made, and then through their committees superintended the work and directed the expenditures. A member of the council as representative of a ward, strove by log-rolling and all the other usual means, to get some work necessary or unnecessary done in his ward, or to get a contract for some influential ward politician, and then, as a member of one of the committees took care that the work should be so done, and the money be so distributed as to gain support for himself at the ward elections. The systematic bribery of members of the council by contractors, and by parties seeking valuable franchises was often alleged.

Under such circumstances, respectable men shrank from taking part in the administration of civic affairs, or if they did seek to represent any of the wards in which jobbing was most prevalent, were defeated at the polls by those who were known to be willing to take part in the misappropriation of the city funds.

It has often been contended that if the ward system were abolished, and a small board of aldermen, or councillors, were elected by the city at large, or if the city were divided into a few districts, so large that the means by which ward elections are often carried would be ineffectual, an honest and intelligent administration of civic affairs would be ensured. The ward system, however, still exists in nearly all the cities of Great Britain and Ireland, of the United States and of Canada. Chicago, availing itself of the permissive clauses of the Illinois' general act*, has a council elected by districts, on the minority plan. In New York a board of twenty-two aldermen are elected—three by each senatorial district, one by an exceptional district, and six by the city at large. The charter provided that the members for the larger districts, and the city at large, should be elected on what is called the minority plan. This provision has been adjudged unconstitutional. In Savannah the twelve aldermen are elected by the city at large. In each of these cities there is but one council board. In Michigan, where according to the general law relating to cities, there is but one board of council, aldermen at large are elected, in some cases. In some cities, which under special charters, have two boards of council, the members of one are elected by the city at large, the members of the other by wards or districts. In very many cities in which there are two boards, the term of office of each is different.

Some contend that cities would be much better governed if the term of office of the mayor and the members of the council were longer. The practice, in this respect, differs much in the cities of the United States, but the term of office of the mayor may be said to be generally longest in those cities in which the mayor is, in reality, as well as in name, the chief executive officer, and largely, or wholly responsible for the administration of municipal affairs. In the greater number of cases, the members of the council hold office for more than one year, and one-third, or one-half, the whole number are elected each year.

In the cities of Illinois, according to the general municipal act, the mayor holds office for two years, and the members of the city council, which is a single board of aldermen, who according to population number from the minimum six to the maximum thirty-six, are elected for two years, one half every year. In cities having but three wards, one alderman at large to hold office for two years is elected every year by the whole city.

According to the general law of Michigan, the mayor is elected for one year. One alderman to hold office for two years is elected by each ward every year. There is no second board. In Detroit the council is composed of two bodies. The board of councilmen has twelve members, who are elected for four years, three being elected every year. The board of aldermen has twenty-six members, elected for two years, one half each year.

The Ohio municipal system is exceedingly complex. It divides the cities into two classes, and in each class there are four grades. In cities of the first and third grade of the first class, the mayor is elected for two years. A city of the first grade of the first class has a board of thirty aldermen, elected by five districts, to serve for four years,—each district being made up of five wards,—and a board of councilmen, consisting of two representatives from each ward, elected for two years. Each ward elects one councilman every year. In cities of the third grade of the first class, the board of aldermen consists of one alderman for each ward, elected for two years, one half going out every year, and the board of councilmen is composed as in cities of the first grade.

In Louisville, Ky., the mayor is elected for three years. The members of the council are elected for two years.

In Philadelphia the mayor is elected for four years. Each ward of the city elects one member of the select council, who serves for three years—one-third of the council being elected every year—and one member of the common council for each two thousand names on the completed canvassers' list of the year, who serves two years.

*Sec 53-4.

In the city of New York the mayor is elected for two years, and the aldermen are elected for one year.

In Connecticut, there is no general municipal law. The charter of New Haven, the principal city gives the mayor little power, and the executive authority is almost entirely vested in boards of commissioners.

In Boston, the mayor and members of both boards of the city council are elected annually. In Waltham, and probably in other cities of the state, there is but one board. In all, so far as we could ascertain, the mayor and members of council are elected annually.

In Baltimore the mayor is elected for two years. The city council has two branches. Each ward elects a member of one branch every year, and each district, made up of two contiguous wards, every year elects one member of the other branch for two years.

In St. Louis, Mo., the mayor is elected for four years. There are two boards of council. One consists of thirteen members, who are elected on a general ticket for four years. Each ward elects one member of the other branch—the house of delegates,—for two years. When the two bodies sit together, for special purposes, they constitute what is called the municipal assembly.

In Savannah, the mayor and aldermen are elected for one year.

The English local government Act of 1888 provides that the members of each county council shall all be elected at the same time, and that their term shall be three years. In nearly all previous municipal laws relating to elections the term of the members of municipal councils is made three years, but a third of the members of each council are elected annually.

The complete separation of the executive and legislative powers are the means chiefly relied upon by those who have sought to effect a thorough reformation of the municipal government of some American cities. In Philadelphia, St. Louis, Cincinnati, and other cities, the council, whether it consists of one or two boards, now possesses only legislative power, a veto on the appointment of certain officials, and, in some cases, the power to displace officials for misconduct or neglect of duty.

In New York the mayor, since 1884, appoints, without asking the consent or approval of the council, all heads of departments, and all commissioners, to whom is entrusted the care of public institutions. In Brooklyn, the comptroller and auditor are elected by the people, but all the other officials are appointed by the mayor on his own authority. In Cincinnati, the executive power is placed entirely in the hands of the board of public affairs, and other boards, whose members are appointed by the governor of the state. In Philadelphia, the comptroller, city treasurer, and receiver of taxes are elected. All the other heads of departments are appointed by the council, on the nomination of the mayor, who is held personally responsible for the manner in which they perform their duties. Even conservative Boston, notwithstanding its attachment to the method of doing all municipal work through town meetings, has been forced to seek for a complete change in its system. A few years ago, the mayor had but a limited veto power, and of the public officials, some were elected by the city at large, some were appointed by both boards of the council in convention, some by the board of aldermen, and some by the board of councilmen. Now the mayor has the full veto power, and all officials, except the few who are still elected by the city at large, are appointed by him, with the approval of the board of aldermen. In Waltham, Mass., the executive authority is vested in boards whose members are appointed by the council, on nomination of the mayor. The mayor and aldermen, who constitute the council, are elected but for one year. The members of the executive boards are appointed for three years, one third going out each year. The council determine what work shall be done, and what rates levied, but it is expressly forbidden to interfere with the action of the executive through its committees, or in any other way than by action of the council.

As the mayor or the executive boards may abuse their powers, some means of preventing the continuance of such abuse seems necessary. In New York the mayor may be removed from office by the governor of the state for cause; and although the mayor can appoint, he cannot remove any of the higher officials from office without the consent of the governor. In Philadelphia and other cities, the mayor, if guilty of malfeasance,

may be impeached, on application of a small number of citizens, and the higher officers cannot be removed without the consent of two-thirds, or in some cases three-fourths, of all the members of the council. In Philadelphia, the mayor is required to call the heads of departments together at least once a month, consult them respecting the workings of the departments, and, with their advice and consent, make such rules and regulations respecting the work of the departments as may seem fit. In other cities, the mayor and heads of departments constitute a board, whose duty it is to point out to the council whatever is defective in the civic administration, and to suggest such amendments as may seem desirable.

The custom of electing some of the chief officials is still adhered to in many cities of the United States; but this can hardly be meant as a counterpoise of the great power given to the mayor, as, if it were, a clashing of authority, and injury to the public service, must be the inevitable result. In Philadelphia, two officials, besides the comptroller, are still elected, because the constitution so requires. But it would be difficult to find any better reason than an attachment to old customs for the election of a number of minor officials in cities, in which, as in Chicago, Cincinnati and St. Louis, the appointment of those whose duties are most important is vested in the mayor, acting with the consent of the council or in an executive board.

Where the council have such control of the public money that no expenditure can be made or liability incurred without their express consent, a mayor cannot abuse his power to any great extent. In most cases, the councils have at least the power to keep down all or most of the expenditures, whether the estimates are prepared by the heads of departments or executive boards, and submitted through the mayor, or are prepared by the finance committee of the council, acting within their own discretion, or restricted by the reports sent from departments. In some cases, the council is required to assess and levy sums demanded by independent boards controlling schools, police, fire department, and other branches of the civic service, while free to exercise their discretion as to all other expenditures. In Cincinnati, nearly all the estimates are prepared by the board of public affairs, on reports from heads of departments. The estimates, so prepared and submitted to the council, may be amended by that body. If amended, the amendments go to the board of public affairs for approval. When the estimates have passed both these bodies, they are submitted to the board of tax commissioners, of which the mayor is chairman, and by that body the estimates for the expenditures on any branch of the ordinary service, and the rate of taxation may be reduced. In New York, the estimates are prepared by the board of estimates and apportionment, composed of the mayor, comptroller, president of the board of aldermen, and the president of the department of taxes and assessment. The affirmative vote of all the members of this board is required on each item. The estimates, when prepared, are submitted in detail to the council, which may recommend any changes. After consideration of the recommendation of the council, the board make the final estimates. If they override what the charter calls "the objections or suggestions made by the board of aldermen," the reasons for such action are published in the city Record. Brooklyn has also a board of estimates and apportionment, but in that city the council may, by its own action, reduce, although it cannot increase, any item in the estimates.

It has been proposed that, in Toronto, members of the council, nominated for the purpose, should be elected by the people, chairmen of committees and heads of the departments, over which such committees are now supposed to have control; that these chairmen, so elected, should give all their time to the public service, should receive salaries, and, with the mayor, be the city executive. No such mode of reformation appears to have been thought of elsewhere, and it is opposed to the principle of dividing the executive from the legislative functions, which, in many cities of the United States, is regarded as the only effectual means of securing honesty, economy, and efficiency. In New York, and in some other cities, the heads of the departments sit at the council table, and take part in the discussion of such matters as relate to their several departments, but they are not allowed to vote.

MUNICIPAL ASSESSMENT AND EXEMPTIONS.

In 1878 the Ontario Legislature appointed a committee "to consider and take evidence on the subject of municipal taxation and exemptions." That committee held several sessions and decided to submit a number of questions to "municipal corporations, banks, railway, loan, and insurance companies, commercial agencies, boards of trade, agricultural societies, and to any merchants, manufacturers, and other business, professional and working men, whose names may be suggested to and accepted by the committee." With regard to exemptions the committee after a prolonged discussion resolved that government property, schools, town or city or township halls, court houses, gaols, pensions of \$200 from Her Majesty, the income of the Governor-General and Lieutenant-Governor, the income of a farmer derived from his farm, grains and cereals in transit and some other things are properly exempted, and on a division of seven to four a resolution was passed directing that those should not be placed on the list of exemptions as to which an expression of opinion was to be invited.

Taxation of Incorporated Companies—Banks.

Evidence was taken as to the taxation of banks, insurance companies and other corporations, and as to the operation of the tax upon personal property and income. Mr. Harman, the Toronto city treasurer, complained that although authority was given to tax bank dividends and the dividends of other corporations, no machinery for the collection of that tax was provided. The banks and corporations were not required to furnish lists of their stockholders. It was possible to ascertain the names of the stockholders residing in Toronto and the amount of stock they held at a particular time from the returns made to the Dominion Parliament, but as bank stock changes hands from day to day it was found impossible to reach it all for the purpose of taxation, and in Mr. Harman's opinion Toronto did not get the taxes on more than about one third of the stock held in that city. The present assessment law* provides that every corporation whose dividends are liable to taxation as against the shareholders, shall, at the written request of the assessor of any municipality in which there is or are any person or persons liable to be assessed for income derived from stock in such corporation, deliver or send to such assessor a statement setting forth the names of the shareholders who are resident in such municipality or who ought to be assessed by such municipality for their income, the amount of stock held by every such person on the day named for that purpose by the assessor in his written request, and the amount of dividends and bonuses declared during the twelve months next preceding. The principal officer of the corporation in the province is required to certify on such statement, that to the best of his knowledge and belief it is correct. Sec. 34 provides that the personal property of an incorporated company shall be assessed against the company as if it were an unincorporated company or partnership. But the personal property of a bank, or of a company which invests the whole or the principal part of its means in gasworks, waterworks, plank or gravel roads, railway or tram-roads, harbours or other works, requiring the investment of the whole or principal part of its means in real estate, "shall as hitherto be exempt from assessment, but the shareholders shall be assessed on the income derived from such companies." The difficulties complained of by Mr. Harman have not been wholly removed.

The law of Massachusetts on the taxation of corporations† provides that all the shares of stock in banks, whether of issue or not, existing by the authority of the United States or of the commonwealth, shall be assessed to the owners thereof in the cities or towns in which such banks are located, and not elsewhere in the assessment of all state, county and town taxes imposed and levied in such place whether such owner is a resident of such city or town or not. All such shares shall be assessed at their fair cash value on the first day of May, first deducting therefrom the

* Sec. 43.

† Public Statutes 1882, Chap. 13.

proportionate part of the value of the real estate belonging to the bank, at the same rate and no greater than that at which other moneyed capital in the hands of citizens and subject to taxation is by law assessed. And the persons or corporations who appear from the records of the banks to be owners of shares at the close of the business day next preceding the first day of May in each year, shall be taken and deemed to be the owners thereof for the purposes of this section." The 9th section provides that "every bank or other corporation, shall pay to the collector or other person authorized to collect the taxes of the city or town in which the same is located . . . the amount of the tax so assessed upon the shares in such bank or other corporation." The amount so paid is a lien on the shares and dividends. The tax commissioner who is a state officer, on receiving a statement of the names of the shareholders, the amount of stock held by each, and his place of residence, which the cashier is bound to furnish, decides how much of the amount paid by the bank should go to the other cities and towns in which any of the stockholders reside.

Savings banks pay to the treasurer of the commonwealth one-half of one per cent. per annum on their average deposits calculated twice a year, and co-operative saving fund and loan associations pay one-quarter of one per cent. per annum on the amount of dues paid in by the shareholders, exclusive of fines, interest and premiums.

The revised statutes of Illinois for 1880, chap. 120, sec. 13, provide that the personal property of banks, insurance companies and other companies not specially provided for in the Act, shall be "listed" and assessed in the county, town, city, village or district where their business is carried on, except such property as is liable to assessment elsewhere. Sec. 35 of the same chapter says, "the stockholders in every bank located within this state, whether such bank has been organised under the banking laws of this state or of the United States, shall be assessed and taxed upon the value of their shares of stock therein, in the county, town, district, village or city, where such bank or banking association is located and not elsewhere, whether such stockholders reside in such place or not. Such shares shall be listed and assessed with regard to the ownership and value thereof as they existed on the first day of May annually, subject, however, to the restriction that taxation of such shares shall not be at a greater rate than is assessed upon any other moneyed capital in the hands of individual citizens of this state, in the county, town, district, village or city where such bank is located. The shares of capital stock of national banks not located in this state, held in this state, shall not be required to be listed under the provisions of this Act." Sec. 39 provides that, "for the purpose of collecting such taxes, it shall be the duty of every such bank or the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders as shall be necessary to pay any taxes levied upon their shares of stock respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid; and any officer of any such bank who shall pay over or authorise the paying over of any such dividend contrary to the provisions of this section, shall thereby become liable for such tax."

Professor Ely says,* "The Maryland system of taxing incorporated banks works well. They are taxed by the state authority, namely the state tax commissioner. The actual value of all shares is computed and from this the assessed value of all real estate is deducted, the remainder is divided by the number of shares, and this gives the value of each share for purposes of taxation. The bank pays the tax to the state commissioner for the shareholders and charges it to them. Banks often pay local authorities also and deduct the same from the dividends."

Insurance Companies.

The committee heard evidence as to the taxation of insurance companies for municipal purposes. The law it was said authorised the imposition of a tax on the capital stock of insurance companies whose head offices are in this province. It had been the

general practice to tax only the dividends of these as of other companies. In that year the city of Toronto "assessed the capital stock of a couple of companies. Under the law the municipalities had no right to tax the stock of any insurance company," whose head office was outside the province. Such companies Mr. Edgar argued were free from taxation in this province. This was a strong and almost fatal discrimination in favour of foreign companies as against home companies. He argued further, that insurance companies should be placed in the same position as banks, building societies and investment societies, because they invested largely in real estate and buildings, which were assessed to their full value and largely in mortgages on land and in municipal debentures. Both the money invested and the stock were in many cases taxed. Sir W. Howland stated that the capital of insurance companies is not used in their business, but is "carried as security to the public in case of the contingency of a loss which might arise beyond the ordinary income of a company, and is invested largely in mortgages and municipal debentures." He argued that only the net profits should be taxed.

The public statutes of Massachusetts of 1880, chap. 13, sec. 25, provide that every corporation and association engaged within the commonwealth by its officers or agents . . . in the business of life insurance, whether incorporated by authority of this commonwealth or otherwise, shall annually pay an excise tax of an amount to be determined by assessment of the same at the rate of one-quarter of one per cent. per annum, upon a valuation equal to the aggregate net value of all policies in force on the 31st day of December then next preceding, issued or assumed by such corporation or association and held by residents of the commonwealth." Fire, marine and other insurance companies incorporated under the laws of the commonwealth, are required to pay an excise tax of one per cent. on all premiums received during the year. All such companies and associations incorporated or associated by authority of another state or of the United States, are required to pay two per cent. on all premiums charged or received on contracts made in the commonwealth for insurance of property or interests therein. If any other state impose a tax greater than two per cent. of the premiums on the business of a company incorporated in Massachusetts, a rate as high is imposed in Massachusetts on the business of any company incorporated in such state. A rate of four per cent. is imposed on the premiums received in Massachusetts by any fire, marine or other insurance company or association, incorporated or associated under the laws of any government or state other than one of the United States. But if any such foreign company has kept deposited with any department of any one of the United States, or in the hands of trustees residing in the United States, for the general benefit and security of all policy holders residing in the United States, securities approved by the insurance commissioner of the value of \$200,000, which have at all times been available for the payment of losses in this commonwealth, the tax upon the premiums of such company is assessed at the rate of two per cent. The companies are required to make annual returns under oath to the tax commissioners. All unused balances of premium notes on open policies, all returned premiums, and all sums paid for insurance are deducted from the gross receipts.

Mutual fire insurance companies with a guaranty capital, and mutual marine insurance companies with a permanent fund, if organised under the general law are dealt with as companies having a capital stock divided into shares; every corporation chartered by the commonwealth, or organised under the general laws for purposes of business or profit having a capital stock divided into shares, is taxed upon the true market value of its shares ascertained as the statute directs, "at a rate determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth" during the year.

The laws of Illinois provide that the stocks of all companies and associations incorporated under the laws of the state, shall be assessed on their true market value or their actual value. Insurance companies incorporated by the authority of any other state or government are required to obtain a license before they do business, and to make a return annually in the month of May to the proper officer of each county town or municipality in which it has an agency of the net receipts of such agency during the preceding year, and this is entered on the tax lists subject to the same rate of taxation for all purposes as other personal property.

Pennsylvania taxes joint stock companies, including insurance companies in the manner described as follows: "If the dividend or dividends made or declared by a corporation during any year amount to six or more than six per cent. upon the par value of its capital stock, then the rate would be half a mill upon the capital stock for each one per cent. of dividends so made or declared—that is, the corporation would pay a tax equal to one-twentieth part of the dividend, or equal to five per cent. upon the dividends; if no dividend has been made or declared, or if the dividend has not amounted to six per cent. upon the par value of the capital stock, then the tax is at the rate of three mills upon each dollar of a valuation of the capital stock made according to law." This system which might be much simplified, a majority of the Maryland tax commissioners recommended the adoption of, excepting, however, railroad and other companies on which they thought special taxes should be imposed, because of the character of their franchises. Telegraph, express, palace and sleeping car companies, in addition to the tax on capital stock or dividends pay an annual tax of eight-tenths of one per cent. upon their gross receipts. The Maryland commission recommended that "a gross receipt tax be imposed upon telegraph companies at the rate of two per cent; and three per cent. upon telephone, express, title insurance, safety deposit and trust companies, parlor car and sleeping car companies; and one per cent. on domestic insurance companies, leaving the tax as at present one and one-half per cent. on the gross receipts of foreign insurance companies." And they add, "these taxes will of course be in addition to the tax measured by the companies' dividends." In support of their proposition they say, that with the exception of the insurance companies, all those companies are absolute monopolies, which are enabled by the grant of corporate franchises from the state to make such charges as they please, collect large sums of money from the people, and enrich themselves at their own pleasure. Professor Ely who differed from his associates says,* that he would prefer to raise the rate of tax on gross revenues if necessary and abolish the tax on dividends. The taxation of insurance companies at two different rates according to their location within or without the state never appeared to him desirable, "although it is done in many states." He says, "insurance companies are highly useful institutions and they are liable to competition. It is impolitic to place any undue burden on them. The disposition to do this sometimes manifested ought not to be encouraged. It is better to insist upon stricter business methods on the part of insurance companies, and more adequate guarantees that they will fulfil their contracts as a recompense for their franchises, than to lay heavy taxes on them. They should of course, be obliged to pay their proper share of taxes. In their case there is more reason for limiting taxation to a tax on dividends or net revenue than in the case of other corporations."

The state of Vermont imposes the following gross receipt taxes: Two per cent. on the gross amount of premiums and assessments collected by insurance companies whether home or foreign, and one-half of one per cent. on all surplus over and above the necessary reserve; the value of real estate owned by the company is allowed to be deducted from the surplus before payment of one-half per cent. is required, but not from the gross receipts; a tax of one-half of one per cent. upon the average amounts of deposits, and accumulations in the savings banks after deducting the value of the real estate owned by the banks; one per cent. upon the average amount of deposits in every trust company, including moneys or securities held by the company as trustee under order of court or otherwise, but no other taxes are imposed upon deposits or accumulations in the savings banks or trust companies; three per cent. on the gross receipts from express business, telegraph business or telephone business; and two per cent. on the gross receipts of all steamboats, car or transportation companies, except steam railroads, but the real and personal property used in carrying on the operations of the companies so taxed are exempted from taxation.

In his evidence before the committee, Mr. Maughan, assessment commissioner of the city of Toronto, stated that there were then 75 insurance offices in that city, not one of which paid any tax except that on the place in which it did business. Some did not pay even that as the agencies were held by parties doing other business.

*Taxation in American states and cities, p. 331.

THE QUESTIONS.

The questions framed by a sub-committee and approved by the committee were:—

1. Is it in your opinion desirable that the classes of exemptions mentioned in the list sent you herewith should continue to exist either in whole or in part? Give reasons for any changes you may suggest.

2. Is it advisable to levy all rates and taxes on real estate only? Give reasons for your opinion.

3. What is the assessed value for 1877 within your municipality of the following:

- (1) The real estate.
- (2) The personal property.
- (3) The taxable income.

4. About how much of the personal property in your municipality escapes assessment?

5. What is the practice in your municipality under sub-section 20 of section 6 of the Assessment Act? Is it to deduct the whole of the debts other than mortgage debts of the person assessed; or if not what is the course pursued?

6. Would it be desirable to extend the powers of councils in cities and towns so as to enable them to impose a frontage tax for local improvements without the petition of the property owners directly interested; or would you suggest any other method, if so what, of levying rates by means of a frontage tax?

7. Where a frontage tax is imposed should it be (1) according to the frontage irrespective of value; or (2) the value irrespective of the buildings; or (3) the value including the buildings?

8. Would the imposing of a business license fee in lieu of taxing personal property be an advantageous change? Give your reasons for the view you take and any suggestions you may desire to make as to the mode of fixing the license fee if that course should be adopted.

9. What is your opinion with regard to assessing live stock of all kinds, wherever found irrespective of what the party owes? Or should live stock be taxed at all?

10. Where income exceeds \$400 per annum, should the whole of the income in your opinion be liable to taxation, or should the first \$400 be exempt?

11. Have you any special suggestions to offer respecting the assessment of lawns or vacant ground used as a farm or garden in villages, towns or cities?

12. In cases where manufacturers, agents, commission merchants or others, carry on business without any assessable stock in hand, do you think a license or other tax should be imposed? If so, in what form?

13. Can you suggest any system by which transient traders, such as dealers in bankrupt stocks, can be made bear their fair share of municipal taxation along with permanent merchants?

EXEMPTIONS.

Evidence on the subject of exemptions was given. Mr. Maughan, the assessment commissioner of Toronto stated, that exemptions of incomes of \$400 and under amounted to \$2,409,720. If these were taxed he thought it would be a benefit to the poor man, because the taxation would be made equal. The amount which \$400 income would then pay was about \$7.80 for everything. He would suggest that all ground should be assessed for drainage and other local improvements. He thought that the large majority of the people of Toronto desired that churches and a reasonable amount of land to each should be exempt. He would allow to a church that accommodated 500 people a quarter of an acre, to a church that accommodated 1,000 people half an acre, and so on. The exemption

of clergymen's residences and ministers salaries he wished to see abolished, and he thought that no land within the city should be valued as farm or garden land, but that all should be assessed on its actual value. Alderman Winchester thought that government grounds, such as that of the lunatic asylum, should be taxed for sewers and other improvements. He thought even burying ground and the ground belonging to a church should be taxed, although because of what may be merely a sentiment "a house of worship should be free from taxation."

We learn from the report made by the committee in 1879, that in reply to the first question proposed, twelve reeves, one village and one town, recommended that the exemptions then existing should continue without change; thirty-five reeves, two warden, eleven villages, eleven towns, two cities, one railroad company, and one individual, recommended that the exemptions be abolished in part; and eight reeves, one town, one city, one insurance company, and one individual recommended, that the exemptions then existing be abolished in *toto*. Twelve answers not specific were received, and from twenty reeves, two villages and one town no answer was received.

In England buildings and grounds used for religious, charitable and educational purposes are exempt from taxation, national and municipal, and in many instances the lands and investments from which charitable institutions derive their incomes. The Taxing Act of 1656 (the time of the commonwealth) abolished "all privilege of place or person, body, politic or corporate, but allowed exemptions," in the case of masters, fellows and scholars of the colleges in the universities, the colleges of Winchester, Eton or Westminster, or any other free schools; and readers, officers and ministers of the said universities, colleges and schools, or of any hospitals or almshouses, in respect of stipends, wages or profit of their employments; the houses and lands belonging to Christ's hospital, Bartholomew, Bridewell, Thomas and Bethlehem hospitals in respect of rent or revenue, payable to the hospitals and disbursed for the immediate relief of the poor therein.* This act seems to have abolished several exemptions for the time. The act 3 and 4, William 4, chap. 30, provided that after the day named "no person should be liable to be rated or to pay any church, or poor rates, or cesses, for or in respect of any churches, district churches, chapels, meeting houses or premises, or such part thereof as shall be exclusively appropriated to public religious worships, and which (other than churches, district churches, and episcopal chapels of the established church), shall be duly certified for the performance of such religious worship according to the provisions of any act now in force." This exemption extended only to buildings from which no person received any rent or derived profit or advantage. It was held until 1840 that the inhabitants of parishes, townships and villages, were liable under the act of Elizabeth and the act of 13th and 14th, Charles the Second, "in respect of their ability derived from the profits of stocks in trade, and of other property to be taxed for and towards the relief of the poor." An act passed in that year relieved them from that liability, but it expressly excepted parsons, vicars, occupiers of lands, houses, tithes impropriate, appropriations of tithes, coal mines or saleable underwoods. The Irish Poor Law Act passed in 1838, states that, "no church, chapel or other building, exclusively dedicated to religious worships, or exclusively used for the education of the poor, nor any burial ground or cemetery, nor any infirmary hospital, charity school or other building, used exclusively for charitable purposes, nor any building, land or hereditament dedicated to or used for public purposes shall be ratable, except where any private profit or use shall be directly derived therefrom. An Act passed in 1843 (6th and 7th Vic. chap. 36), provided that "no person or persons shall be assessed or rated, or liable to pay to any county, borough, parochial or other local rates or cesses, in respect of any land, houses or buildings belonging to any society, instituted for purposes of science, literature or the fine arts exclusively, either as tenant or owner, or occupied by it for the transaction of its business and for carrying into effect its purposes." If the association holding such property declare dividends, or if any person derive any profit or advantage from its possession or use, this Act does not relieve it from liability to such taxation. The property of boroughs which do not maintain their own poor, is subject to the union poor rate. The municipal laws provide

*Dowell's History of Taxation and Taxes in England, vol. 3, pp. 77-8.

in general terms, that the rates shall be levied equally on the full annual value of the messuages, lands, tenements and hereditaments ratable to the relief of the poor therein. The law which now imposes the income tax in Great Britain, exempts "the income from property held in trust for charitable purposes so far as it is applied to such purposes, including rents and profits from land and houses, stock or dividends, in or from any public funds and yearly interest or other annual payments; hospitals, public schools, and almshouses, viz., the public buildings, and the income from land and houses belonging to them, Friendly societies, industrial and provident societies, and the stock, dividends and interest belonging to them under Schedule C, and interest and other profits and gains under Schedule D; the public buildings and halls in the universities, the buildings of literary and scientific institutions, and the lands and stock vested in the trustees of the British museum. Incomes below £150 are exempted, and incomes below £400 are entitled to certain abatements as are also premiums for life insurance.* The salaries and residents of ministers are not specially exempt under this act, but in other respects the exemptions extend farther than under our municipal law.

In all the older states of the American union, and in nearly all the others the exemptions of real estate are almost exactly the same as in Ontario. It would be sufficient probably to state what the exemptions are in a few of those states. The exemptions in Massachusetts are, "the property of the United States of the state and of municipal corporations, personal property of literary, benevolent, charitable and scientific institutions, incorporated within the commonwealth, and the real estate belonging to such institutions, occupied by them or their officers for the purposes for which they were incorporated, but such real and personal estate are not exempt if part of the income or profits of their business is divided amongst the members or stockholders, or is appropriated for any other than literary, educational, benevolent, charitable, scientific or religious purposes; all property belonging to common school districts, the income of which is appropriated for the purposes of education; the Bunker Hill monument; houses of religious worship owned by a religious society or held in trust for the use of religious organizations, and the pews and furniture; but portions of such houses appropriated for purposes other than religious worship, shall be taxed at the value thereof; cemeteries, tombs and rights of burial, so long as the same shall be dedicated for the burial of the dead; the estate both real and personal of incorporated agricultural societies."†

In Connecticut any church or ecclesiastical association besides the church or other building, may hold exempt from taxation personal property, consisting of bonds, mortgages or funds, invested to an amount not exceeding \$10,000 if held solely for the use of such society.

In the state of New York the exemptions are, "all property real or personal exempt from taxation by the constitution of the state, or under the constitution of the United States; all lands belonging to the state or to the United States; every building erected for the use of a college, incorporated academy, or other seminary of learning; every building for public worship; every school house, court house, and gaol, and the several lots whereon such buildings are situated, and the furniture belonging to each of them; every poor house, almshouse, house of industry, and every house belonging to a company incorporated for the reformation of offenders, and the real or personal property belonging to or connected with the same; the real and personal property of every public library; all stocks owned by the state or by literary or charitable institutions; the personal estate of every incorporated company not made liable to taxation on its capital in the 4th title of this chapter; the personal property of every minister of the gospel or priest of any denomination, and the real estate of such minister or priest when occupied by him, provided such real and personal estate do not exceed the value of \$1,500, and all property exempt by law from execution."

The state of Illinois provided in its constitution, art. 4, sec. 32, that "the general assembly shall pass liberal homestead and exemption laws," and the revised statutes, chap. 120, provide that all lands granted by the United States for school purposes and

* Dowell's History of Taxation and Taxes in England, Vol. 3, pp. 118-9.

† Public Statutes of Mass., 1882, chap. 11.

not sold or leased; all public school houses; all property of institutions of learning, including the real estate on which they are located, not leased by such institutions or otherwise used with a view to profit; all church property actually and exclusively used for public worship, when the land (to be of reasonable size for the location of the church building) is owned by the congregation; all lands used exclusively as graveyards or grounds for burying the dead; all unentered government lands, and all buildings belonging to the United States and the land on which they are located; all property belonging to the state of Illinois; all property belonging to any county, town, village or city, used exclusively for the maintenance of the poor; all swamp or overflowed lands belonging to any county so long as the same remains unsold by such county; all public buildings belonging to any county, township, city, or incorporated town, with the ground on which such buildings are erected not exceeding in any case ten acres; all property of institutions of purely public charity, when actually and exclusively used for such charitable purposes not leased or otherwise used with a view to profit; all free public libraries; all fire engines and other implements used for the extinguishment of fires, the buildings used exclusively for the safe-keeping thereof, and the lots of reasonable size on which the buildings are located, when belonging to any city, village or town; all market houses, public squares, or other public grounds used exclusively for public purposes; all water-works and machinery belonging exclusively to town, village or city; all property which may be used exclusively by societies for agricultural, horticultural, mechanical and philosophical purposes, and not for pecuniary profit, shall be exempt from taxation."

The exemptions of real estate in Pennsylvania, Ohio, Minnesota, Vermont, Tennessee, Georgia, Kansas, and several other states are similar to these. The constitution of Missouri* declares that no property, real or personal, shall be exempt from taxation, except such as may be used exclusively for public schools, and such as may belong to the United States, to the state, to counties, or to municipal corporations within the state. The constitution of California, art. 11, sec. 13, provides that "all property in this state shall be taxed in proportion to its value to be ascertained as directed by law." As the state has no right to tax the property of the United States, there seems to be room for doubt as to the meaning and effect of this.

The exemptions of personal property vary in the different states. It may be sufficient to state that they are in Massachusetts: the wearing apparel and farming utensils of every person; household furniture not exceeding in any one case \$1,000 in value; the necessary tools of a mechanic not exceeding \$300 in value; the property to the amount of \$500 of a widow or unmarried woman above the age of 21 years, of any person above the age of 75 years, and of any minor whose father is deceased, provided that the whole estate, real and personal, of such person does not exceed in value the sum of \$1,000, exclusive of property otherwise exempted; mules, horses and neat cattle, less than one year old, and swine and sheep less than six months old. Land devoted to the growth of certain trees are exempted for a certain number of years, and persons unable to pay by reason of old age or infirmity, are exempted from the poll tax and the tax on such portions of their estates as the assessors may judge proper.

Mr. Ely, discussing the question of the exemption of church buildings says,† "the question as to the propriety of taxing church edifices is one which must be discussed from broad grounds of public policy. If it promotes the general welfare to exempt church buildings from taxation it is perfectly proper to do so. There are two questions to be asked: Do churches promote the intellectual, moral and economic interests of the people? Will they be aided in their work by the exemption of the property used purely for religious purposes from taxation? All states except California answer both of these questions in the affirmative." Mr. Ely looks at this question entirely from the economic standpoint. He agrees with his associate commissioners that parties should not be allowed to abuse the exemption for speculative purposes. Mr. Ely disapproved of the recommendation that the property of incorporated schools, colleges and universities should be taxed. Nothing, he says, yields so large a return to the ratepayer as the exemption of such institutions, not only because of the good they do by educating so many, but also because

* Art. 11, sec. 13

† Taxation in American States and Cities, p. 344.

did not such institutions exist the state or the municipality must establish and maintain others to do their work. He writes in the same way of the proposal to tax hospitals, free libraries and other benevolent and educational institutions.*

Mr. Maughan, when giving testimony before the committee said that the majority of the people of Toronto did not ask for the assessment of churches or of the land on which they were built, but thought that in some cases the quantity of land exempt was greater than it should be.

In England school houses and buildings connected therewith were held by the courts to be liable for the payment of a rate for the paving of the street on which they abutted. This decision probably covers charitable and other institutions, literary or educational. It has been decided in some of the courts of the United States that a general statute exempting property from taxation by any law of the state does not exempt it from liability for a local improvement assessment. In Maryland it has been decided that a cemetery must pay its share of the cost of paving the street in front of it; in St. Louis that public schools are liable to assessments for sewers, sidewalks and pavements and in Louisiana that institutions exempt from general taxation are not exempt from local improvement assessments.

The general adoption of the local improvements system under which nearly all properties are liable to taxation, according to frontage for the construction of sewers and all other improvements, which a majority of the property owners in a district may ask to have made seems to satisfy to a great extent, if not altogether, those who disapprove of exemptions. The provincial government by contributing liberally to the cost of any work that is of service to any property belonging to the province removes another cause of complaint. It seems but fair too that the property of a municipality situate in a local improvements district should like other properties be assessed on its frontage.

ASSESSMENT OF PERSONAL PROPERTY.

The question "Is it advisable to levy all rates and taxes on real estate only" is very fully treated of in various parts of our report and especially under the heading "The Basis of Taxation." All the writers on taxation whom we have been able to consult, maintain that it impossible to tax personal property fully and fairly, and the municipal taxation of income works unjustly everywhere. Some of those writers urge the substitution of taxes which they think would be as productive and would work more fairly. Mr. Maughan when asked by the chairman of the committee "what proportion of the personal property in the city of Toronto is reached now for taxation purposes" said, "my impression is that we do not get more than one-eighth." Mr. Harman, the city treasurer, described the difficulty that is found in assessing personal property and the unfairness that seems unavoidable in many cases and said "the amount we do get at is absurdly small." He recommended a business tax proportionate to the volume of business transacted. Of those to whom the questions were sent, 102 replied that they did not think it desirable to levy on real estate only and 15 were in favour of making real estate bear all rates and taxes.

The numerous replies received to the third question show how small a proportion the personal property assessed bears to the real. In York the assessed values were real estate \$5,507,350, personal \$231,750, income \$17,600. The disproportion was as great in other places and some returned no income. The admirable report of the agricultural department contains the full returns for each year since the establishment of the Bureau of Statistics. These show that the proportion of assessed personal property to real is absurdly small in all parts of Ontario as it is everywhere else.

With those figures before us some of the answers to the 4th question seem very surprising. Some say that no personal property escapes assessment save such as is exempt by law, or that very little escapes. Some put the amount that escapes at ten per cent., some at 20 per cent., some at 25 and some at 33½. Twenty-two think that 50 per cent.

* Taxation in American States and Cities, pp. 347-9.

escapes, eighteen estimate the amount at from 60 to 75 per cent. and eleven think that from 80 to 90 per cent. escapes taxation; even this estimate is far too low for the cities, towns or villages.

The answers to the fifth question vary. In some districts it is the practice to deduct "the whole of the debts" from the estimated value of the personalty; in others to deduct only what is due on account of the property assessed, and in some to make no deduction whatever.

LOCAL IMPROVEMENTS.

To the sixth question, eight reeves, one village, six towns and one insurance company replied that it would be desirable to extend the powers of councils in cities and towns so as to enable them to impose a frontage tax for local improvements without the petition of the property owners directly interested. Nine reeves, one warden, four villages, three towns, two cities, one railroad company, and two individuals answered that such an extension of the power of councils would not be desirable, twenty sent answers not sufficiently explicit to be classed and sixty-two sent no answers.

To the seventh question, four answered that taxes for local improvements should be assessed according to frontage irrespective of value, eleven replied that the taxes should be imposed according to the value irrespective of the buildings and twenty-two replied that the taxes should be imposed according to the value including the buildings.

It is probable that the general, if not the universal practice in cities and boroughs was to require the owners of property to do all work that was thought necessary on the streets in front of their properties. This was the system of street making adopted in several of the cities on this continent also. Allison and Penrose in their work on the municipal history of Philadelphia, state* that the corporation having failed to put the streets in proper order, "Many of the inhabitants in 1718 voluntarily paved from ye kennel to the middle of the streets before their respective tenements with pebble stones," and that "some years later an ordinance was passed compelling property owners to pitch and pave in front of their lots under penalty of having it done at their expense by the corporation." This is substantially the law in some cities still. In Savannah the mayor and council determine what repairs and renewals are necessary to streets, sidewalks and sewers, and order the owners of property to make them. If the owners disregard the order the mayor and council get the work done and collect the cost, which until paid is a lien on the property. In Louisville "when an improvement is the original construction of any street, walk, lane, alley or avenue, such improvement shall be made at the exclusive costs of the owners of lots in each fourth of a square to be equally apportioned by the general council according to the number of square feet owned by them respectively, except that corner lots shall pay 25 per cent. more than others.† "The cost of making sidewalks including curbing, whether by original construction or reconstruction is apportioned to the foot front as owned by the parties respectively fronting such improvement." The council may permit a majority of the property owners to make the improvements themselves under the supervision of the city engineer.

In Philadelphia at the present day the city council are authorised to prescribe by ordinance, that paving of streets except at the intersection thereof, and of footways and laying of water pipes within the limits of the city, shall be done at the expense of the owners of the ground in front whereof such work shall be done.‡ They may regulate, grade, pave and repave, curb and recurb footways and sidewalks at the expense of the owner or owners of the property adjoining; construct sewers in the streets of the city and charge therefor \$1.50 for each lineal foot against each front.§ If a majority of the owners of property through which a street has been laid out, petition to have it opened, graded and paved, the work is done under supervision of the city engineer, but no street requiring a sewer is paved until a sewer has been put down. The cost of all improvements so made is charged to the owners of the property and becomes a lien on it. The cartways of the public streets and highways, except at the intersections thereof, are also paved at the

* p. 30. † Louisville city code 1884, pp. 299, 300. ‡ Philadelphia city digest, p. 28. * *Ibid.* p. 29.

expense of the owners of the ground fronting thereon. The repairs of these public highways are done at the expense of the city. "For all streets newly paved, the cost thereof, exclusive of street intersection is equally divided among . . . the persons owning properties fronting thereon proportional to the lengths of their several fronts.* In the rural wards of the city the cost of macadamising or turnpiking may in like manner be charged to the owners of property. The ordinances provide that the council on application having been made, may require the owners of the properties on an unpaved street or alley to curb and pave the whole or any part of the footway at their own cost.† The footways of all public streets and the cartways and footways of private streets are kept in repair at the expense of the owners of the ground fronting thereon. If any owners neglect to do what is required it is done by the street commissioner and the cost becomes a lien on their properties. Minute provisions are made as to the character of the work that is required or that on request of the property owners may be done. So with regard to sewers and drains which the property owners may themselves construct on plans prepared by the city engineer and under his supervision and control. When the council construct a sewer it is authorised to charge \$1.50 per lineal foot against each front. The old idea that the owner of a property is bound to do all necessary work on the street in front of his property evidently influences the legislation of Philadelphia on this whole question.

In the city of New York the repavement of any street, avenue or public place may be ordered by the board of aldermen to be done under the direction and control of the commissioner of public works, but if the expense of any previous paving of a street or place was assessed upon the owners of adjoining and benefited property, the cost of the repaving is borne by the city at large.‡ The sewerage of the city was placed under the control of the Croton Aqueduct board. When they constructed a sewer they apportioned the cost on the property benefited.

Title 19, of the charter of the city of Brooklyn, as amended in 1888, provides that the common council may upon the petition of a majority of the property owners or of the owners of a majority of the property to be affected or by a three-fourths vote of the board of aldermen and consent of the mayor without such petition, open, close, extend, widen, regulate, grade, pave, regrade and repave roads, streets, lanes and avenues . . . and generally have such other improvements in and about such streets (made) . . . as the public wants and convenience shall require. The expense of all such improvements shall be assessed and be a lien on the property benefited thereby in proportion to such benefit. Notice of the proposed improvement is published, and if before the day named in the notice a majority of the property owners send a remonstrance to the council, they shall not allow the improvement to be made or proceed therein. Before any other proceeding is had the common council lay out a district of assessment and cause a map to be prepared showing what property is to be taken, if any, for the purposes of the improvement and the several pieces of land and premises to be assessed for the cost, and the assessors determine the amount of damages, the amount to be assessed on each lot and the value of the benefits to be derived from the improvements in each case. Before a contract is made for any sewers, sidewalks, flagging, paving or other local improvement and after the probable cost has been ascertained in the case of sewers by the department of city works, and in other cases by the common council the council must cause an assessment to be made upon the district for the amount of such estimated cost. If the cost prove greater than the estimate an additional assessment may be imposed. If the council deem it proper to cause avenues, streets, squares or places to be opened, they make application to the Supreme Court to appoint three commissioners who estimate the expense of the improvement and the damages which the owners of any lands or buildings may sustain. When they have reported and their report has been confirmed as the charter provides, the assessors assess the expense of the improvements, including the amounts awarded as damages upon the properties benefited in proportion to the benefit which in their opinion the same shall derive from or in justice ought to be assessed for the said improvements.

* Philadelphia city digest, 1701-1887, pp. 229-231.

† p. 259.

‡ Act of 1875.

Forty-eight sections of the charter are devoted to these and cognate matters. The duties and powers of the council, the commissioners and assessors are carefully defined.

The general law of Massachusetts of the year 1882, chap. 51, provides that if a street, highway or other way has been laid out, altered, widened, graded or discontinued in a city or town under the provision of a law authorising the assessment of betterments and in the opinion of the officers authorized to lay out streets or ways therein any real estate including that part of which is taken therefor, receives any benefit and advantage therefrom beyond the general advantages to all real estate in the city or town such board may determine the value of such benefits to such estate and may assess upon the same a proportional share of the expense, . . . but this shall not exceed one half of the amount of such adjudged benefit. With regard to sewers, chap. 50, sec. 4, provides that every person who enters his drain into a main sewer or who by more remote means receives benefit for draining his cellar and land shall pay a proportional part of the cost. And sec. 7, provides that the council of a city may adopt a system of sewerage for a part or the whole of its territory and provide that assessments shall be levied upon the owners of estates within such territory by a fixed uniform rate based upon the estimated average cost of all the sewers therein according to the frontage of such estates on any street or way where a sewer is constructed or according to the area of such estates within a fixed depth from such street or way, or according to both frontage and area.

The Revised Statutes of Illinois,* chap. 24, art 9, provide that "the corporate authorities of cities and villages are thereby vested with power to make local improvements by special assessment or special taxation, or both, of contiguous property or (by) general taxation or otherwise as they shall by ordinance prescribe." They may raise the cost of such improvements partly by special and partly by general assessment. When the council determine to make such improvement they make application to the county court for the appointment of three commissioners. These estimate "what proportion of total cost of the improvement will be of benefit to the public and what proportion will be of benefit to the property to be benefited, and apportion the same so that each shall bear its relative equitable proportion and assess the amount so found to be of benefit to the property upon the several lots, blocks and parcels of land in the proportion in which they will severally be benefited by such improvement."†

The constitution of this state, provides‡ that "the general assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property or otherwise."

In some cities the council may order that the cost of paving, repairing and cleaning all streets be paid in whole or in part by the owners of the abutting properties. In others any local improvements to be paid for by the owners of the contiguous property may be ordered by a mere majority of the council if a majority of the property owners petition therefor or by a two-thirds majority of the members elect, even if the majority of the property owners petition against such improvement. In some the cost of the improvements is levied on the abutting or the abutting and contiguous properties according to the frontage of each, in others according to the benefit and advantage as estimated by assessors or commissioners. In some the council determine the boundaries within which all properties are to be regarded as having received benefits from the improvements. In others the whole question is left to the assessors or commissioners. In Baltimore, Md., the cost of pavements is borne one-third by the city, and one-third by the abutting property owners on each side.

BUSINESS LICENSES.

In reply to the eighth question, eleven reeves, two villages, three towns, one city, one insurance company, one railroad company and two individuals wrote that "the imposing a business license fee in lieu of taxing personal property" would be an advantageous change. Thirty reeves, three wardens, nine villages, seven towns and two cities wrote that they did not think such a change advisable. Thirty-eight reeves, one warden, four villages and one town did not answer the question.

* 1880.

‡ Chap. 24, sec. 139.

* Art. 9, sec. 9.

It may be thought possible to devise a system which would more effectually bring personal property within reach of taxation and make the taxation of such property less unfair and unjust in its operation. But no such system has yet been devised anywhere or at any time. If no such system can be devised and it be held nevertheless that personal property should contribute a fair proportion towards municipal expenditure it may be well to consider whether any substitutes could be found for a direct tax on personal property that would prove more satisfactory. A business license such as is imposed in Quebec and Montreal is one of the substitutes which Professor Ely strongly recommends in his work on taxation in American cities. The system of business licenses such as exists in Maryland, South Carolina and other southern states he disapproves of as restricting trade and discouraging enterprise.*

"In Charleston, South Carolina, there are fifty-six classes of business to which licenses are issued besides a few special licenses. Hotels pay according to the number of rooms, master mechanics according to the number of hands they employ, barbers \$3 for each chair, and dealers according to the amount of their sales. In 1886 all these yielded only \$128,459, less than one-fourth of the whole revenue. In Charlotte, N. C., every bar-keeper pays \$1,000, every express company \$250, every gas or electric light company \$100, surgeons, lawyers, dentists \$15 each, fruit stands \$10 each and boot-blacks \$3 each. The schedule of licenses in the tax ordinance of Atlanta, Ga., for 1886, covers six pages. In Maryland all dealers must pay licenses to the state according to the estimated value of their stocks. If the stock does not exceed \$1,000 the license fee is \$12. On \$1,500 the fee is \$15, on \$2,500 it is \$18, and so increases until on a stock with more than \$30,000 and less than \$40,000 it is \$150. In 1887 those fees yielded \$187,187. The total receipts from licenses in that year was \$521,311.

LIVE STOCK.

In reply to the ninth question, twenty-one reeves, one warden, three villages, four towns and one city wrote that live stock should be taxed in full without deductions of any kind; about as many wrote that "the amount owing on such stock should be deducted from the assessed value, and twenty-one reeves and six others wrote that live stock should not be taxed at all. Wherever personal property is taxed, live stock is also taxed; but horses and horned cattle under one year old and sheep and swine under six months are generally exempted. It is not easy to understand why agricultural implements should be exempt and live stock be taxed.

INCOME.

To the tenth question, fifty-six replied that in taxing all incomes, the first \$400 should be exempted and only the amount in excess of \$400 should be taxed; forty-eight thought that there should be no exemption when the amount exceeded \$400. In Massachusetts the only incomes liable to taxation are those from annuities from ships and vessels engaged in the foreign trade . . . and so much of the income from a profession, trade or employment as exceeds the sum of two thousand dollars a year. Virginia the only other state in which a general income tax is now levied, imposes on incomes in excess of \$1,000 derived from interest or profits a tax of one per cent. This in 1886 yielded only \$20,755. In Illinois, Michigan and other states annuities are subject to taxation when the property from which they are derived is not taxed. In Philadelphia, an ordinance was passed many years ago imposing a tax on offices, posts of profit, professions, occupations, pleasure carriages and horses. This was considered obsolete in 1812 and was repealed in 1828.*

In Pennsylvania the tax on the capital stock of joint stock companies is to some extent of the nature of an income tax as the amount of the tax that may be imposed on the stock is determined by the amount of the year's net earnings. Charlotte, N. C., levies one per cent. on all incomes, the sources of which are not taxed.

* Taxation in American States and Cities, pp. 204-8.

* Philadelphia, Allison and Penrose, p. 122.

OTHER REPLIES.

A majority of those who answered the eleventh question, were of opinion that lawns and vacant ground used as a farm or garden, in village, town or city should be taxed as other property to their full value. Many, however, thought the law on this subject as it then existed was satisfactory.

Thirty-four reeves, four wardens, five villages, nine towns, two cities, one insurance company, one railroad company and two individuals in reply to the twelfth question, said that a license fee or other tax should be imposed upon manufacturers, agents, commission merchants and others who carry on business without keeping any assessable stock in hand. Four reeves, two villages, two towns and one city thought that no license fee or tax should be imposed upon such persons.

In reply to the thirteenth question, forty-five reeves, four wardens, ten villages, twelve towns, one city, one railroad company and two individuals expressed the opinion that a license should be imposed upon transient trades while only one city and one village were of the opinion that a license fee should not be imposed.

It is obvious that if personal property is to be taxed, exceptional means must be employed to obtain from either of these classes a fair contribution to the expenditures of the municipality in which they do business.

In reply to the fourteenth question, sixteen wrote that assessments should be made on the annual value or rack rent of property in cities, towns and villages, and twenty-two wrote that they thought the present system better. In the cities of Great Britain the assessments are made on rentals; in the cities of the United States, on the value of the properties as estimated by the assessors. It would matter little which mode were adopted—if on the one hand rentals were always properly stated and the rentals at which unoccupied properties would let were fairly ascertained or on the other properties were always fairly valued for purposes of assessment—except only as regards the relation of real and personal property where both are taxed. Some of the witnesses who appeared before the committee argued with much force that it was unfair to tax capital invested in real estate or in business to the full amount while the owners of money invested in stock pay taxes only on their dividends.

Twelve of these who replied to the fifteenth question, thought that in assessing joint stock companies the rate should be struck upon the value of the capital stock, and forty thought that the rate should be struck upon the value of the property of the company. All agreed that there should be no exemptions. Two thought that the rate should be struck upon the property and income.

Forty-eight replied to question sixteen, that the same rule should apply to banking and insurance companies, and two that the law should remain as it was.

The law of Massachusetts provides* that personal estate shall for the purposes of taxation include . . . public stocks and securities, stocks in turnpikes, bridges and moneyed corporations within or without the state. This seems to mean that all stocks should be assessed at their "face value." The Statutes of Illinois† provide that "the capital stock of all companies and associations . . . shall be so valued . . . as to ascertain and determine the fair cash value of such capital stock including the franchise over and above the assessed value of the tangible property of such company," which in all cases is assessed as if it were the property of an individual. In Pennsylvania we are told the tax on capital stock is practically a tax on the net profits as although the tax is levied on the capital the amount of the tax must bear relation to the amount of the dividends. In Maryland the actual value of the shares is computed and from this the assessed value of all real estate is deducted. The Maryland system requires all corporations to pay taxes on stocks and bonds and to charge the tax to the holders of stocks and bonds.‡ In Savannah the rate of taxation on bank shares is fixed by law at three-tenths of one per cent.

The constitution of Ohio provides that "laws shall be passed taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise,

* Chap. 11, sec. 4.

* Chap. 120, sec. 3.

*Ely's taxation, etc., pp. 328-31.

and also all real and personal property according to its true value in money," except that which may be by law exempted; and in another section it enacts that the legislature "shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description of all banks . . . and of all bankers so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals."

In 1879 the committee reported to the House. In their report they merely stated that they had taken some evidence, had prepared a circular and sent it to various public bodies and prominent individuals and that they had caused an analysis of the replies to be prepared. That analysis and the evidence they submitted to the legislature. Many amendments of the municipal laws of this province have been made since; but the most important of the questions which engaged the attention of the committee engage attention still. In the principal cities of the United States earnest efforts have been made to reform their municipal systems, and in England a system of local self-government in county affairs has been introduced. It is to be hoped that the experience of other countries will prove useful whenever it is found necessary to amend the municipal system of this province in order to secure a more prudent and economical administration of municipal affairs, to lessen the burden of taxation and to distribute that burden more justly.

A COMPARISON.

A comparison of the municipal system of Ontario with those systems of the principal states of the union, which we have described, shows that while there is a general resemblance the differences are many and important.

The Municipal Electorate.

In the United States any citizen of full age who has resided a certain time in any state, and a certain time which may be shorter in the electoral division in which he proposes to vote, and who has been duly registered, may vote at all elections. Registration is easy, and the oaths which may be administered in any case are few. The prevailing opinion in Ontario seems to be that those who vote at municipal elections should contribute some share of the money whose expenditure their representatives may control. The elector must therefore be assessed on real estate to a certain amount as owner or occupant, on personal property or on income.

Organization of Townships.

Prof. Howard, of the Nebraska University, the first volume of whose valuable contribution to the Johns Hopkins series of "Studies in Historical and Political Science" has just been published, describes the origin of the American township. The Anglo-Saxon Tunscepe was, he thinks, all but identical with the German Mark in many respects. "In the tungemot or town meeting . . . by-laws were enacted, . . . the less important contentions between man and man adjusted and petty offenders tried and punished. The Hundred Moot was the regular tribunal for the more important judicial business, and the township was represented by its reeve and four best men" in the assemblies of the Hundred and of the Shire. In time the township was transformed into the manor, with its manor court, court baron and sometimes a court leet, and became a parish with an ecclesiastical organisation. These changes went on until the vestry meeting took the place of the tungemot in all that related to the prudential affairs of the parish. "The vestry meeting was a genuine folkmoot, in which all who paid lot and scot had an equal voice. Even villeins could participate in its deliberations. "In many instances the select vestry in process of time was substituted for the open vestry. This system of

parish government the original settlers of New England transplanted to America. They made so many changes and introduced so much that was new that the New England town government was almost unique, and yet its continuity in general outlines with that of the mother country can be plainly discerned. . . . In the choice of a name they returned to the usage of *Ine* and *Withraed*," and they revived the primitive village community. Everywhere appeared the house lots or village mark, the common fields for cultivation, the common meadows and pastures, and the undivided mark or waste; and as in ancient times, when a new tract was taken possession of by a community a portion of it to be held in severalty was apportioned by lot amongst its members, usually according to the proportion of estate and number of heads in each family." Another feature of primitive Teutonic life introduced or revived in New England was "the jealous watchfulness with which the community sought to control its own membership and the disposal of communal rights." The supervision which for many years the town meeting exercised over personal conduct and the transactions of private business was also a revival of the old system under which the men of the mark or tithing were all responsible for the good behaviour of each. The grant of the territorial domain of the township was at first an act of colonial authority, In Massachusetts at an early period committees of the general court were usually appointed to set out the bounds of a new town or to settle questions of boundaries between towns.*

The township system thus established was afterwards adopted in other States, although with very considerable modifications.

In those states in which township organization exists the mere settlement of a tract laid off as a township in the state survey seems to give the reason and right of existence to township government. Chapter 139 of the revised statutes of Illinois provides that when a county has resolved to adopt township organization commissioners shall divide the county into towns "making them conform to the townships according to government surveys," and when "a township has too few inhabitants for a separate organization then such township may be added to some adjoining town or divided between two or more towns for the time being," and section 26 of the same chapter says, "the county board of each county shall have full and complete power and jurisdiction to alter the boundaries of towns, to change town lines, and to divide, enlarge and to create new towns in their respective counties to suit the convenience of the inhabitants residing therein, but no new town shall be created under the provisions of this Act of less territory than seventeen square miles, nor unless there shall be at least fifty legal voters residing in such new town, nor unless twenty at least of the legal voters of such town shall petition for such alteration." Due notice of any proposed change must be given, and no incorporated town shall be divided unless consent thereto is given by a majority of all the electors voting at a general annual election in the town.

The constitution of the state of Michigan, article 10, section 11, provides that the board of supervisors of each organized county may provide for organising townships, and chapter 9, section 450, of the compiled laws, makes it the duty of the board to organize, as a separate township, any territory attached to an organized county for judicial or municipal purposes whenever it appears to them that such territory contains at least twelve resident legal voters.

The manner in which new townships and new counties are organized is not quite the same in any two of these states. No change or modification of the Ontario system in this respect has been suggested, or with regard to the union of counties, the government of united counties and the separation of such counties. The powers entrusted to the Lieutenant-Governor in Council in such cases seem to be regarded as affording a salutary check upon hasty or inconsiderate action. In some of the United States, as in Illinois,† the people of the district which it is proposed to erect into a township or a county, and those with whom they have been connected, settle all such matters by their own action, calling and holding meetings and voting as the law prescribes.

* Howard's Local Constitutional History of the United States, pp. 10-56.

† Statutes of Illinois, Chap. 34, sections 4, 10, 11.

In Minnesota, and afterwards in Dakota, a mode of organizing townships has been adopted which is described as follows in the Dakota Statute of 1883: "Whenever the majority of voters of any congressional township containing twenty-five legal voters petition the board of county commissioners to be organized as a town said board shall forthwith proceed to fix and determine the boundaries of such new town and to name the same." They file a report of their proceedings with the county auditor or county clerk, and thereupon the township is organized. The boundaries, it is required, shall as far as possible correspond with those of the congressional or surveyed township, but such changes as may be rendered necessary for the convenience of the inhabitants by rivers or other physical obstacles may be made. In many of the states the county authorities have power to organize townships on petition of a majority of the electors resident in the district, who are not less than the number fixed by statute. It is said that at first every township in New England was incorporated by special act of the legislature. It seems probable, however, that in several instances the formation of the township and of its system of government was the act of the people themselves, who were compelled by common dangers and common interests to organize and to frame such laws as their circumstances obviously demanded. In some cases the whole of the new county, or of the county precinct as it is called before it has been organized, is organized as one township. Sometimes a single township contains two or more counties.

Professor Howard describes the municipal system in the Western States as a compromise system and says of it that "even as it now exists" it is "for simplicity, symmetry, flexibility and administrative efficiency, superior to any other system which the Teutonic mind has yet produced." The history of town organization in the west begins with the ordinance of 1785, which provided for the survey and sale of the lands ceded to the national government by various states and by certain Indian tribes. The famous ordinance of 1787 did much to give form and character to the municipal institutions of the west. The character of the immigration had also a marked effect, although not so great in Mr. Howard's opinion as is generally supposed. In Nebraska for instance when the territorial government was established in 1854, the county was made the political unit although a vast majority of the settlers were emigrants from the New England and the Middle States. It was not until 1875 that measures were taken for the introduction of the township system and to this day several counties have refused to adopt that system. In Illinois several counties still refuse to adopt the township system. California adopted the township system in 1879. It was not until 1883 that the legislature passed an act to give effect to the constitutional amendment, and the township that created is described as "an inchoate organism." Mr. Howard argues that under the conditions which have existed for many years county organization naturally precedes township organization. The institutional history of Michigan he regards as peculiarly interesting, because that was the first of the Western States to adopt what he calls "the New York system of representative local government," the township system having been "introduced at an earlier stage than we should now think best from an economic point of view." That New York system was created in 1705, when it was provided that the affairs of the county in that state should be managed by a board composed of a supervisor from each town who was also head of the town municipality.

In Ontario, townships are laid out by the Crown. The 27th section of the Municipal Act provides that if the township is laid out in territory forming no part of an incorporated county "the Lieutenant-Governor may by proclamation annex the township or two or more such townships lying adjacent to one another to any adjacent incorporated county, and erect the same into an incorporated union of townships with some other township of such county." But if a township laid out by the Crown is in an incorporated county or union of counties the council of the county or of the union of counties may unite such township for municipal purposes to some adjacent incorporated township or union of townships. When a junior township of an incorporated union of townships has 100 resident freeholders and householders on the revised assessment roll "it shall upon the 1st day of January next after the passing of the proper by-law in that behalf by the county council become separated from the union." When a junior township has at least

50 but less than 100 freeholders and householders the county council on petition of at least two-thirds may separate that township from the union if the reasons seem sufficient, and in the by-law make provision for holding the first township election therein. If two-thirds of the freeholders and householders, no matter what the number, petition to be separated from the union to which they belong and to be attached to some adjoining municipality the county council may make the change asked for. Provision is made for the proper adjustment of assets and liabilities. If in an incorporated county there are two or more adjacent townships not having together 100 resident freeholders and householders and not belonging to any incorporated union the council of the county or union of counties may by by-law form such townships into an independent union of townships. Townships formed into a union by proclamation or by-law are classed according to the number of resident freeholders and householders on the last revised assessment roll if there is one. If there is no such roll the order of seniority is determined by the proclamation or by-law.

Township Government.

In some of the New England states the township still possesses large municipal powers which it exercises at the township meetings, annual and special. At these meetings the people assembled make such by-laws as they think necessary, determine what works shall be undertaken within the township, whether any township property shall be sold or any property shall be acquired, make necessary appropriations, impose such taxes as they think necessary to raise the amount required for all purposes, and elect all the officers they think necessary. They also audit the accounts of the year. The selectmen and other officers have little power besides what is expressly given to them by the town meeting. In a few matters for which the town meeting cannot directly provide the selectmen have discretionary power and they act as assessors if the town meeting elect no others. In some states the road commissioners are empowered by statute to impose a limited tax for road purposes, and the county board may order certain works, regarded as essential, or cause them to be done if the town meeting neglect or refuse to make provision for them. In the state of New York the town meeting does not do so many things directly. The supervisor, who is head of the municipality, and some officials associated with him form a township board who possess some legislative and administrative authority. In Ohio, the people in town meeting assembled, although they vote on such questions as are submitted to them, seldom do more than elect a board of trustees and the township officers. The trustees have considerable legislative and administrative powers. In Pennsylvania the townships elect boards of supervisors who have considerable powers.

At present "while the statutes differ widely in subordinate features, but three well defined general types of township organization exist in the Western States and territories. The lowest or least developed type is that which first arose in Pennsylvania, and which with various modifications has since been adopted by Ohio, Indiana, Iowa, Kansas and Missouri. Under this . . . the township is usually a self taxing body; has a corps of officers more or less numerous chosen by ballot, and it is sometimes entrusted with a most important branch of local administration—the management of the public schools. Beyond these limits its constitution does not extend. Two important attributes of the highest type of town organization are lacking; the right of representation on the county board and the deliberative folkmoot. . . . Accordingly the township is brought into close subordination to the county authority and the will of the people finds direct expression only in the choice of officers at the polls." The second type of town government is that developed in Minnesota and transplanted thence to Dakota. Under this the town possesses more extended powers and a more carefully balanced organism, "but its distinguishing mark is the annual township meeting assembled not only for the choice of officers, but for the enactment of by-laws and the exercise of other functions of a restricted legislative body. But here also is subordination to the county board without representation." The third and highest form of local organization is that usually styled the New York plan . . . already established in the states of Michigan, Illinois, Wisconsin and

Nebraska. Here the spirit of localism finds opportunity for freest expression. The constitutional organism is symmetrical and complete; the town meeting possesses powers commensurate with the requirements of modern life; and the primitive and proper nexus between scire and tunsceipe is restored. The township is of course subordinate to the county, but it is subordination with representation: for in the county board, composed of the supervisors or other head men of the townships, we behold a rehabilitation of the ancient sciregemot. In short the representative township county system of the Northwest seems to be one of the most perfect products of the English mind and worthy to become as it not improbably may become the prevailing type in the United States.*

Under all these systems the township has less authority than under the New England system and is more subordinate to the county. It is the county that determines when a choice is to be made whether the county system shall be continued or the township system be adopted. It is the county board that organizes new townships, divides those already in existence, determines and defines the boundaries or attaches a township with a small population to another. The county board also names a township when organized. And it may change the name of a township on petition of the inhabitants. Even in Massachusetts the board of county commissioners has supervising authority over the township administration. In the Western States that authority is greater. In Indiana no taxes may be levied without the approval of the county board—and when the town trustees do not act or in case of disagreement the county commissioners may by their own authority make the levy. "In Nebraska, on failure of any township to organize by choosing officers according to law, such officers may be appointed by the board of supervisors and exercise the same powers as if regularly elected. Moreover, should the officers thus nominated fail to qualify the board may annex the township concerned to any adjoining township of which it shall constitute a part." In many cases all bonds for township as for other purposes must be issued by the county board. In many cases also the county board equalize assessments, hear appeals from the decisions of township authorities and when necessary compel the townships to discharge duties which they neglect or refuse to discharge.

The headship of the town is vested in a trustee in Indiana, Missouri and Kansas, in a town chairman in Wisconsin, in a supervisor in New York, Michigan, Illinois and Nebraska. In everyone of these instances, save Indiana, a double headship exists. Side by side with the trustee or supervisor, who has important administrative duties of his own, is found a township board of audit, appeal or general superintendence, of which the former is member by virtue of his office. On the other hand, the supervising authority is in several states vested wholly in the board. This is the plan adopted by Ohio, Pennsylvania, Iowa, Minnesota and Dakota.

The town board is composed in New York, Illinois, Michigan and Nebraska, of the supervisor, clerk and justices of the peace; in Pennsylvania, of two or more supervisors; in Iowa and Ohio, of three trustees; in Minnesota, Wisconsin and Dakota, of three supervisors, and in Kansas, of the trustee, clerk and treasurer.

The powers of the board among the different states are still more varied than its forms. In most cases its chief duty is to audit the accounts of the town officers which after having been audited by the board are read by the clerk before the next town meeting. In Ohio and Wisconsin, especially, the administrative functions of the board are very comprehensive. Where the town meeting does little more than elect the officers, the head officer possesses large administrative powers. In Missouri, he is ex-officio, collector and treasurer, and manages the financial affairs of the town subject to audit by the board. In Kansas he apportions and controls the work on the highways through the overseers and controls the financial affairs of the town. In many of the states in which township organization exists in full vigour, the commissioner of highways has authority to levy a rate to a limited amount for the repair and maintenance of the township roads and bridges.

* "Howard's Local Constitutional History of the United States," pp. 157, 158.

The officers of the township are elected at the annual town meetings and their number is usually very large even in the states in which the authority of the county boards is greatest. In New York the township elects a supervisor, a collector, a clerk, five justices, one or two overseers of the poor, one, two or three commissioners of highways, such number of constables, assessors and pound-keepers as the electors may determine and any other officers allowed by existing laws. The supervisor is *ex-officio* assessor. In Indiana the township trustee is also clerk, treasurer, fence-viewer, inspector of elections and overseer of the poor. The distribution of powers and duties amongst the elected officers differs in every state, but in all the states in which township organization exists the officers managing township affairs are elected by the people in town meeting assembled.

Under the Ontario system the township annually elects a council of five who appoint all the township officers and exercise all the powers, legislative and administrative, of the municipality; these powers seem to be as large as are necessary for all township purposes. The head of the township council is the reeve, who is elected as such. A township may be divided into four wards if the people so desire; in that case each ward elects a councillor and the whole township elects the reeve. The reeve represents the township in the county council. If the township has on the last revised assessment roll the names of 500 freeholders and householders possessing the same qualification as voters then the council consists of a reeve and a deputy-reeve and three councillors: for every additional 500 names of persons so assessed there is elected another deputy-reeve instead of a councillor. All the deputy-reeves have seats at the county council. The Ontario system of township government seems to be eminently satisfactory. The only change in it that has been suggested is such an enlargement of the powers of the township councils as would render the continuance of county councils unnecessary, but no plan of enlargement, worthy of serious attention, has been submitted to us.

In England, district councils, subordinate to county councils, are to be created in order to complete the municipal system lately introduced there. We do not expect to find in the Act constituting those district councils anything that, if adopted in this province, would improve its township system.

Organization of Villages, Towns and Cities.

The Ontario municipal law affords the people every conceivable facility for obtaining the benefits of municipal self-government. When in any part of a township the residences are so close that it seems desirable that the people should have the means of procuring a supply of water, of lighting the district, of making improvements under the local improvement law, and of causing the commutation for statute labour to be expended within its limits, the council of the township may, on petition of a majority of the ratepayers within the area, set it apart as an unincorporated village, and when that has been done the township council, in addition to its ordinary powers, acquires, as to the area so set off, all the powers conferred on the councils of cities, towns and incorporated villages in respect of the matters above stated.

"On the petition of any of the inhabitants of an unincorporated village the council or councils of the county or counties within which the village is situate may, by by-law, erect the same into a police village and assign thereto such limits as may seem expedient." Thereupon the ratepayers elect three trustees, who appoint one of their number inspecting trustee. The duties of the trustees are to make and enforce regulations for the prevention and the extinguishing of fires and for the prevention and abatement of nuisances. To provide means of meeting their expenses they may require the council of the township in which the village is situated "to cause to be levied with other rates upon the property liable to assessment in such village such sums as they may estimate to be required to cover the expenditures for that year in respect of matters coming within their duties . . . not to exceed one cent in the dollar on the assessed value of such property." Unincorporated villages, even when they become police villages, are represented in the county councils by the Reeves and deputy-reeves of the townships in which they are situate.

When an unincorporated village and its immediate neighbourhood has 750 inhabitants, as shown by a census taken by order of the county council, and the residences of these inhabitants are sufficiently near, the county council, on petition of not less than 100 residents, freeholders and householders, of whom not less than one-half are freeholders, shall erect the village and neighbourhood into an incorporated village. No village or town, the population of which does not exceed 1,000, can occupy more than 500 acres of land, and no addition can be made to its limits or area except in the proportion of not more than 200 acres for each additional 1,000 souls. There are other restrictions of a like character to the increase of area. If the newly incorporated village lies in two counties it must be annexed to one as the counties may agree, and if the counties do not agree the Lieutenant-Governor, on memorial from the wardens or petition from 100 freeholders, annexes the village to one of the counties. If the village is separated from the township the share of the township debts which it must pay and of the township property which it should own are settled as prescribed by the Act. The incorporated village is governed by a council composed as township councils are, of one reeve and four councillors elected annually. When a village has the names of 500 freeholders and householders on the assessment roll it elects a deputy-reeve instead of one of the councillors and for every additional 500 an additional deputy-reeve is elected. The reeve and deputy reeves, when there are any, represent the village on the county council. The powers of the council respecting all matters within the village appear to be ample.

If an incorporated village desires to extend its boundaries, or to be annexed to another municipality which consents to such annexation, or if a village desires to become incorporated, such change is made in either case by proclamation of the Lieutenant-Governor in Council. In case of an incorporated village, whose population does not exceed 2,000 and whose obligations and debts do not exceed double the net amount of the yearly rate then last levied and collected, the county council may, on petition, reduce the area by excluding lands wholly used for farming purposes. Several other provisions are made to meet exceptional cases.

When a village has more than 2,000 inhabitants it may become a town. Due notice must be given of the intention of the council to apply for the change. When proof is submitted to the Lieutenant-Governor in Council that such notice has been given and that the population exceeds 2,000 he "may by proclamation erect the village into a town." The Lieutenant-Governor may divide the town into wards. No town shall have less than three wards and no ward less than 500 inhabitants. Subsequently, on application based upon a resolution passed by two-thirds of the members of the council, the Lieutenant-Governor may divide the town anew into wards, either within its old limits or by extension of those limits, or any part of the town, or any territory added to the town. The council of the town consists of a mayor, who is the head, and of three councillors for every ward if there are less than five, or of two for each ward if there are more than five. The council of a town having less than five wards may, upon petition of not less than 100 municipal electors, reduce the number of councillors for each ward to two. The mayor is elected annually by the electors of the whole town. If the town is not separate from the county a reeve and as many deputy-reeves as it is entitled to according to its population are also elected. The powers of the town council are fully defined.

The ward system is almost universal in Great Britain and prevails in a great number of the cities of the United States. But in New York which has only one board of council of only twenty-two members, six are elected by the city at large, fifteen are elected by the five senatorial districts, and one by an exceptional district. In Brooklyn the twenty-six wards are grouped into three aldermanic districts, which elect twelve of the members of its one board, and seven others are elected by the city at large. Illinois permits its cities to choose whether the members of their councils shall be elected by wards or by districts, formed of contiguous and compact territory, containing as nearly as practicable an equal number of inhabitants. Chicago has adopted this system. In several cities of Michigan the councils are of one board, and a number of the members are elected by the cities at large. There are cities in which all the members of the council are elected by the people acting together. When the ward system prevails a revision is made after each

decennial census, in order that the population of the several wards shall be as nearly as possible equal. In England a revision takes place only when asked for by two thirds of the council, but there the commissioner appointed for the purpose is required by law to have regard as far as practicable as well to the number of persons rated in the ward as to the aggregate rating of the ward," in order that the representation of persons and property may be as fair as possible.

In Ontario a town may withdraw from the jurisdiction of the council of the county in which it is situate. The share of the county debt which the town must bear and the proportion of the necessary county expenditure which it must annually contribute may be settled by agreement or arbitration. When the agreement or award is submitted to the Lieutenant-Governor he issues his proclamation and thereupon the town assumes a position almost analogous to that of a city. In several states of the union the only towns are those territorial divisions which we call townships. In most of those states they have only cities and villages, but some of the cities are as small as some of the towns of Ontario. The village is never wholly separated from the township there, or the city from the county, in municipal matters. Indeed in some cases—notably in New Haven, Connecticut—township organization and government exist within the cities which have special charters and a city government also.

In Ontario a town which has 15,000 inhabitants or more, whether it has been separated from the county or not, may become a city. If it has not been separated, the amount of the county debt which it must assume having been settled by agreement or arbitration, the Lieutenant-Governor, when the requisite evidence has been submitted to him, may, by proclamation, erect the town into a city. The council of a city consists of the mayor elected annually by the city at large, and of three aldermen elected annually by every ward. The powers of the city councils are very great.

In Illinois any area of contiguous territory, not exceeding two square miles, having a population of at least 300 inhabitants may become a village. Any thirty legal voters may petition the county judge who thereon shall appoint a day on which the electors of the district may vote on the question as at town elections. The returns are made to the judge who causes a statement of the result to be entered upon the records of the county court. If a majority of the votes cast is for village organization the village is thereby organized. Six trustees are elected to hold office for two years—three going out each year. The trustees elect one of themselves president. This body have a common seal and all powers conferred upon the councils of "cities not exceeding 5,000 inhabitants." The constitution of the state of Michigan expressly authorizes the legislature to confer powers of "a local legislative and administrative character upon towns, villages, cities and counties." Chapter 127 of the compiled statutes provides that the board of supervisors of a county may, after application duly made and the hearing of all parties interested without reference to the electors generally, incorporate as a village any part of a town or towns (townships) not included in any incorporated village and having a population of not less than 300 in a territory of not more than one square mile. At an election subsequently held, under the direction of the board, three trustees are elected for one year and three for two years; every following year three are elected for two years to take the place of three going out. A president of the board of trustees and several officers are also elected. Other officers may be appointed. The powers of the board are defined at length.

In Illinois any incorporated village having a population of not less than 1,000 may become a city. If an eighth of the legal voters voting at the last preceding municipal election petition the president and trustees to submit the question to a vote of the electors of the village it becomes their duty to appoint a time and place, or places, at which such vote shall be taken, and if a majority of the votes cast is in favour of the change an entry to that effect is made on the records of the village and thenceforth the place is deemed to be a city. An area of contiguous territory, not exceeding five square miles and having a population of not less than 1,000 inhabitants, not included within any incorporated town or city may become incorporated as a city. In such case application is made by at least fifty legal voters of the district to the county judge who orders that an election

shall be held at a fixed time and place within the district and names the election judges. The result is entered on the records of the court. If a majority decide for city organization the inhabitants of such territory . . . shall be deemed to be incorporated as a city. Provision for the subsequent election of city officers is made. The aldermen may at such election be elected on a general ticket. As in other cities a mayor is elected for two years by the city at large. The number of aldermen varies from six in cities not having more than 3,000 inhabitants to the maximum thirty-six. The council may divide the city into wards and in such case each ward elects two aldermen. Where the minority representation system is adopted the city is divided into districts, not less than two or more than six, and each elects its aldermen. The aldermen hold their seats for three years, one half going out each year.

In Michigan special charters were given to several cities and villages. The general municipal Act offers facilities to these to substitute for their charters incorporation under the general Act. Villages having 3,000 inhabitants may become cities. The cities which have less than 10,000 inhabitants are divided into two wards for each 3,000 and an additional ward for every additional 2,000. In cities of more than 10,000 there is an additional ward for every additional 4,000. In cities having no more than three wards two additional aldermen are elected by the city at large. There is but one board of council in cities incorporated under the general Act. The mayor is elected by the city at large for one year. The aldermen are elected for two years, one-half going out each year. The legislature may create any city of 20,000 inhabitants a county.

Organization of Counties.

In the United States generally counties are organized by the legislature. In some a two-thirds vote is necessary for the passing of any measure relating to county organization, and the assent of the inhabitants is required before any change in the organization of a county can be made. The minimum area of a county in most states is 400 square miles, but in some the minimum is six hundred miles.

The constitution of Kansas, art. 9, sec. 1, enacts that "The legislature shall provide for organizing new counties, locating county seats and changing county lines, but no county seat shall be changed without the consent of a majority of the electors of the county, nor any county organized, nor the lines of any county changed so as to include an area of less than 432 square miles." The second section says, "The legislature shall provide for such county and township officers as may be necessary."

The constitution of Illinois provides that no new county shall be formed by the general assembly which would reduce the county or counties from which the territory is taken to less contents than 400 square miles; that no county shall be formed of less contents; that no county line shall pass within less than ten miles of the county seat, and that no county shall be divided or have any part stricken therefrom without submitting the question to the vote of the people. Chapter 34 of the revised statutes provides how such question shall be submitted and effect given to the decision of the electors and how questions of debts, liabilities and assets shall be adjusted between the new county and the county or counties of which it formed a part. The affairs of counties having township organization are managed by a board of supervisors composed of "the town and such other supervisors as may be elected according to law." The affairs of other counties are managed by boards composed in each case of three commissioners.

The constitution of Minnesota, article eleven, provides that the legislature may, from time to time, establish and organize new counties, but no county shall contain less than 400 square miles, nor shall any county be reduced below that amount, and all laws changing county lines in counties already organized or for removing county seats, shall, before taking effect, be submitted to the electors of the county or counties, to be affected thereby at the next general election after the passage thereof, and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below 400 square miles." Another section of the same article says, "The legislature may organize

any city into a separate county when it has attained a population of 20,000 inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization."

The constitution of Wisconsin provides, art. 4, secs. 22 and 23, "The legislature shall establish but one system of town and county government which shall be as nearly uniform as practicable," and "the legislature may confer upon the board of supervisors of the several counties of the state such powers of a local legislative and administrative character as they shall from time to time prescribe." Article 13 provides that no county with an area of 900 square miles or less shall be divided or have a part stricken therefrom without submitting the question to a vote of the people of the county and the approval of a majority, and that no county seat shall be moved without such submission and approval.

The constitution of Michigan, article 10, provides that no organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless a majority of the electors in each county to be affected so decide, and that the legislature may organize a city of 20,000 inhabitants into a separate county, when a majority of the electors so desire.

The general Act of Michigan provides that "the boundaries of counties shall remain as now established unless the same shall hereafter be changed by the legislature." Provision is made for the government of unorganized counties, for organizing and dividing counties. The governing body in each of the counties is a board composed of one supervisor from each township and city, but Detroit, Monroe and Grand Rapids send a larger number.

In Ontario, as the Lieutenant-Governor in Council may, by proclamation, annex a township newly laid out by the Crown, and forming no part of an incorporated county, to any adjacent county and may incorporate it with some township of the county, and the townships remain so united until the new or junior township has 100 resident freeholders and householders and then it may be separated from the senior, an arrangement having been made as to the division of property and liabilities, so he may, by proclamation, form into a county any new townships not within the limits of an incorporated county, and annex it to an adjacent incorporated county. Provision is made for the government of such counties when united and for their separation when the population of the junior county has reached 17,000, for the appointment of a provisional warden and council, and the division of property, debts and liabilities. When this has been done the Lieutenant-Governor appoints for the junior county a sheriff, one or more coroners, a clerk of the peace, a clerk of the county court, a registrar, and at least twelve justices of the peace, and then, by proclamation, completely separates the junior from the senior county.

Government of Counties.

In England little essential change was made in the government of counties for some centuries. From the time of Edward III. the Quarter Sessions had large judicial functions, and to a great extent managed county affairs. Many important matters of a municipal character, however, were managed by independent bodies such as the Boards of Poor Law Guardians and the boards created under the several Health Acts. When the present public school system was established it was placed under the management of local boards independent of the Sessions. The licensing of taverns, places of amusement and various occupations was placed under the control of officers appointed by the Government. Special boards were also created in many places by special Acts of Parliament. The powers as to highways, bridges and other works formerly held by the Quarter Sessions were by the Local Government Act transferred to the county council, whose members are elected, and the control and management of the county buildings and of the county police are vested in joint committees of the council and the sessions. Another has been added to the many bodies employed in managing municipal affairs, but this change may lead to a complete and simple system.

Those states of the Union which first made the county the unit of their municipal system naturally followed the example of England as soon and as far as circumstances permitted. But it was not until 1634 that Virginia was divided into counties. The number was eight at first, and these were to be "governed as the shires in England." The number of counties was increased several times, and in 1781 was seventy-four. The county was sub-divided into parishes. The justices were appointed by commission in colonial times and after the revolution were elected by the parishes. The system in nearly all the Southern States was similar to this, the process of formation and the ultimate result being somewhat different in each. In some the Hundred was introduced, but as there really was no reason for its existence, it soon disappeared, surviving only in Delaware, where the three sub-divisions are still called Hundreds; in reality these are but large townships. After the civil war and during what is called the reconstruction period an attempt was made to introduce something like the township system into Virginia and West Virginia, and changes were effected which rendered the municipal government of these states different from any that existed anywhere previously. Their present system is very complex. Maryland has elective county commissioners. In Delaware the old county court, composed of commissioners elected in the hundreds, still manage county affairs; the treasurer is nominated by the commissioners; the sheriff and coroner are elected. Alabama has adopted the commissioner system with elective officers. In Mississippi the county board is composed of five supervisors, each elected for a district every two years, and the principal county officers are elected by the people. In Arkansas and Texas county affairs are managed by elected commissioners. In Louisiana the administrative area is styled a parish, but its government is that of the county. In South Carolina three county commissioners are elected biennially to manage highways and all matters relating to taxation. Its assessment system is peculiar. The Governor, with the approval of the Senate, appoints an auditor for each county; to him the general management of the assessment is given; he appoints a board of three assessors for each township or tax district; the board chooses its own chairman, and the chairmen of all the town boards constitute the County Board of Equalization; the president of this is the county member of the State Board of Equalization. In North Carolina each county has a board of from three to five commissioners, who are appointed biennially by the justices, with whom they are required to meet in joint session. They may audit claims, and they have the management of the highways, but they cannot levy taxes without the assent of a majority of the justices. Nearly all the county offices are elective.

In New England township organization preceded county organization, and even to this day the county system is very defective in some of those States. It has attained greater development in Massachusetts and Maine than in any of the others. Massachusetts is divided into fourteen counties, and each county elects three commissioners. Originally the management of county affairs was vested in the General Sessions of the Peace. After that and until 1828 the county authority was a court of sessions composed of a chief justice and two associates appointed by the Governor; but in 1826 the laying out of public roads was given to five commissioners in each county appointed by the Governor. In 1828 a further change was made—the Governor was authorized to appoint three or four commissioners for each county who would be commissioners of highways, and exercise the general powers of the Court of Quarter Sessions. In 1835 the commissioners were made elective.

In Maine the entire supervision of the financial business is entrusted to three elective commissioners.

In Rhode Island there are five counties, but each of these is merely a circumscription for the holding of courts and for the election of a sheriff and other officers. In Vermont each county elects one commissioner annually, whose duty it is to appoint agents to sell liquors for medicinal, chemical and manufacturing purposes, and "the County Court exercises a higher jurisdiction in certain questions connected with the highway administration." The county government, which we have fully described elsewhere, is peculiar and interesting. In New Hampshire each of the ten townships elects every two years three commissioners, a sheriff, treasurer and other officers. The commissioners may elect

one of their own number to act as clerk, and they have the care of the county property, have charge of paupers and lay out highways, but in all important matters they are subject to the control of a county convention composed of those who represent the towns of the county in the Legislature. This convention meets biennially in June—notice having been given by the Speaker of the Assembly—elects its own chairman and clerk, levies the county taxes and authorizes the commissioners to issue bonds and to repair buildings when the cost does not exceed \$1,000. It appoints also two auditors, "one each from the two leading political parties."

In the middle states county government took a different shape. In Pennsylvania a board of commissioners was the chief county authority at an early date, but nearly all the officials were elected by the people and the townships had considerable powers. Some American writers contend, that in this state county government first attained full freedom, but to-day its county system is exceedingly complex. Each county has a triple authority—the board of commissioners to whom belong the construction and repair of bridges, the oversight of the poor, the letting of contracts for public works, and the levy of taxes; a board of auditors who audit the accounts of the commissioners and county officers, and the court of quarter sessions composed of the judges of the common pleas, which must approve of the official bonds of the commissioners, and has the right jointly with the remaining commissioners to fill a vacancy on that board by appointment, and the right to establish school districts, incorporate boroughs, change or divide townships, alter election districts, license taverns and pedlers, and nominate certain town officers at failure of the people to elect. The commissioners may erect county buildings and borrow money for the purpose only with the approval of the sessions and of two successive grand juries. In New York was first introduced the system of managing the affairs of the county through a board composed of the heads of the township, municipalities and representatives of the cities.

The Virginia system as it is called, was generally adopted by the south-western states. The county system of New York or of Pennsylvania, modified by the introduction to a greater or less extent of the New England township system, was generally adopted in the North-west. In Illinois the southern system and the systems of the eastern and middle states exist side by side.

In Ontario a system resembling that of Virginia was at first established. For some years after the conquest, the commandant at Detroit then held by the English was practically the sole judge and legislator for the whole of western Canada. In 1767, the commandant by his own authority created a court over which Philip Dejean presided. The Act of 1774, vested all legislative authority in the Governor-General and his council. Practically, however, martial law reigned in the far west, and in 1779 an arbitration court was established at the instance of the commandant. In 1788 "the first step was taken towards the establishment of civil government in the western part of the province. What was soon to be styled Upper Canada was then divided into four districts. For each district a court of common pleas with plenary jurisdiction to be held by three judges nominated by the Governor-General was erected; justices of the peace were commissioned who could hold courts of general sessions, and there were also appointed a clerk, a coroner and a sheriff." The districts were afterwards subdivided as population increased, but their municipal affairs were always managed as in the southern counties by courts of quarter sessions. A township system was introduced soon after the Quebec Act went into operation, but for many years the town meetings had little power, and the officers elected by them acted under the authority and control of the sessions. It was not until 1849 that the present municipal system was fully established:

An American writer says: "Throughout the entire west, but two types of county organization exist. These may be called the commissioner system, under which the superior authority is centralized—usually in the hands of three men—and the supervisor system under which these powers are vested in a more or less numerous assembly of township representatives. The first type which has descended from the colonial laws of Pennsylvania, through the states of Ohio, Indiana and Illinois, prevails in the majority of states and territories. Under both systems all the county officers are elective."

In the east, Massachusetts, Maine and Pennsylvania, have adopted the commissioner system ; in the south, Kansas and some other states ; in the north-west, Ohio, part of Illinois, Iowa, Colorado, Nevada, Wyoming, Idaho, Dakota, Minnesota, Montana, and Washington territory. The number of commissioners is generally three, but in some cases is five. In some cases they are elected by the county at large, in others by districts, and the term of office is in most cases three years, but in some it is two years, and in others four. In California the county board has five members called commissioners. In Oregon only two commissioners are elected in each county and these form a board only when sitting with the county judge.

The powers and duties of the county boards, whether of commissioners or supervisors, are very great, but they differ in almost every state. They are greatest where township organization does not exist. Under township organization the power of the county board is greatest in the states, in which, as in Indiana and Ohio the Pennsylvania plan prevails, and least in Minnesota, Michigan and the other states in which the New York plan has been so modified as to increase the powers of the town government. In some cases the members of the county board discharge several of the duties which in other cases are entrusted to officers elected expressly for the purpose. This may be said also of the officials. In some counties all accounts must be submitted to the county auditor, and he apportions the taxes for county, city and township purposes ; in some, the county treasurer collects all taxes and pays over what he collects to state, county, city and township treasurers. In Missouri, Washington, Dakota, California, Oregon, Nevada, Colorado and Wyoming, there is a state assessor. In those counties of Illinois which have not township organization the treasurer is ex-officio assessor. The board of control is we believe peculiar to Ohio.

The variety is almost endless. We have described somewhat fully the systems of several of the more important states.

Ontario adopted in 1849, a system which in its essential characteristics, resembles the system which Professor Howard describes as "the representative county system," and of which he says that "it seems to be one of the most perfect productions of the English mind." Other American writers speak of this system in terms as eulogistic. The township municipality has power as great in Ontario as in any of the states of the North-west ; it is represented in the county board by its reeve or the head of its municipality, and where the population is large, by one or more deputy-reeves. The towns not separated from the county and villages are represented on the county board in the same way, and the county board so constituted has ample powers. But the differences between the Ontario system and that of any of the states organized on the township plan are important. In Ontario the township exercises all its municipal powers through the township council ; the county, all its powers through the county council, and none of the officers of township or of county are elected. The appointment of the sheriff and the registrar by the provincial government, and the interference of the Lieutenant-Governor in council in matters of organization and re-organization, most American writers would regard as a serious curtailment of municipal rights.

That which those American writers most admire in the representative county system, viz., the representation of all the minor municipalities on the county board, is said to cause some dissatisfaction in various parts of this province, chiefly, because on the present scale of representation the councils must be so large, although cities and towns separated from counties are not represented on them. No one as far as we can learn is of opinion that the powers of the county councils should be materially enlarged. Indeed some of the powers they possess are seldom exercised. It is contended that the work they actually do could be done more satisfactorily by a smaller body, and that as much of the county expenditure is practically uncontrollable, the expenses of the council are quite out of proportion to the amount which they may dispose of at their discretion.

Similar objections, we find, are made in some of the United States. In Nebraska the county was first organized, and when it was proposed that the township county system should be adopted many opposed it on economic grounds. "Will not the new govern-

ment," the electors asked, "on account of the multiplicity and reduplication of offices be much more expensive than the old? Will the new board of supervisors—a local legislature sometimes composed of many members—be able to administer public affairs as promptly, intelligently and honestly as the commissioners?" It was not until 1883, and after several attempts, that an Act of the Legislature was passed authorizing any county to adopt this system. In the five years that have since passed only twenty-four of the eighty-three organized counties of that State have put the law in operation. We have seen that in Illinois many counties still adhere to the government by commissioners and have no township organization. Professor Howard admits that the objections to the system he admires so much are not without force. He says (pp. 442, 443), "it is objected that the supervisors (reeves and deputy reeves under the Ontario system) are unable to conduct county affairs so speedily, intelligently and impartially as the commissioners. The board, it is asserted, is too large for the transaction of fiscal and other executive business requiring careful consideration and special knowledge. And it must be confessed, whatever may be the countervailing advantages of the more democratic type of organization, that this objection is sometimes a very serious one, particularly when the county contains within its limits a city or large towns entitled to representation on the board, whether by wards or according to population." In several of the States, as in Ontario, representation on the county board increases as population increases. In Lancaster (Nebraska) containing the city of Lincoln, township organization was defeated in 1885 mainly because the county board would have some fifty members.

When the English local government system for counties is complete it may afford a solution of some of the problems which are found so difficult of solution in Canada and the United States. At present the members of the county councils are elected by districts and there seems to be no intention of giving to the district municipalities yet to be created that representation on the county board which so many American writers regard as the very perfection of the municipal system.

Government of Cities.

The system of government in the cities of the United States always differed considerably from that of Ontario. The cities of the United States are generally divided into wards, but the division, which in many is readjusted decennially, is based as strictly as may be upon population without respect to property and seems in no case to be arbitrary. In New England, in New York and other states cities are incorporated under special charters and the diversity of their provisions is enormous. The tendency of late has been to uniformity and now the constitutions of eleven states absolutely prohibit special charters. This has led in some cases to a complex classification and grading of cities in the general Acts, which generally seems to have no other purpose than the maintenance of old forms of government and modes of action to which the people of the cities have become accustomed and attached. In very many of the cities two boards of council exist in imitation of the federal and state legislatures; it is intended that one should serve as a check on the other and the better to effect this the members of the two boards in many cases represent different constituencies and are elected for different periods. As a further check the power of veto such as the president exercises in federal legislation and the governor in the legislation of the State is given to the mayor who is elected by the city at large, and who in most cases does not sit at the council board. In very many cases this is nearly all the real power the mayor possesses. In some cases the mayor, if he thinks one or more items in an appropriation bill objectionable, to prevent the passing of these must veto the whole. In such cases the exercise of the veto power is much restricted. In some cases where there is but one board of council a portion only of its members are elected by wards or districts, and the others are elected by the city at large as in the cities of New York and Brooklyn. In these cities the substitution of large electoral districts for wards does not seem to be regarded as a sufficient guard against the influences said to be so powerful for evil wherever the ward system exists unmodified. Another check on the action of the councils is the election of several of the chief municipal officers by the people. In some states the constitution expressly provides for the

election of such officers; but the number that must be elected by the people and the number that may be appointed by the council on the nomination of the mayor or otherwise differ greatly even in the large cities of the same state. Until the system of government was changed in some of the great cities—a few years ago—all legislative and administrative power—except what the people exercised themselves—directly in some cases and in others through officers elected for special purposes—was vested in the council and exercised directly by it or through its committees and through officers whom it appointed and dismissed at pleasure.

English boroughs of all classes may be divided into wards. The council is of one board. Each ward elects two councillors; the councillors elect aldermen equal in number to one-third of the councillors. The aldermen hold office for six years; the councillors for three. This mode of electing one-fourth of the council is supposed to render that body more conservative and prudent and to secure a continuity of policy. From this, which is a very old custom, some of the American cities probably took the idea of having a certain proportion of their city councils elected by the cities at large. All sit at the same board and the powers of all are equal. The council so constituted elect the mayor who presides at their meetings, but has no power to control their action. The council appoint all the municipal officers and exercise all legislative and administrative authority directly or through their committees. They cannot increase taxation beyond a certain point, however, or incur debt without the permission of the Treasury or of the Local Government Board, and in several cases the sanction of Parliament is necessary.

This system seems to work satisfactorily in England. But when in the cities of the United States in which the population is reckoned by hundreds of thousands, waste, extravagance and corruption became rampant, and municipal reform became absolutely necessary those who gave most attention to the subject agreed that the only certain remedies were the separation of the executive from the legislative functions and the concentration of responsibility. The circumstances of a large American city differ widely from those of any of the large cities of England. In the cities of the United States the representative of a ward who as one of the council had power to determine what work should be done, what money should be spent, what taxes should be imposed, to whom a contract should be given and what accounts should be paid, and who as member of a committee of the council superintended the work done and controlled the officers to whom the preparation of plans and the inspection of materials and work were entrusted, was regarded as a model of exemplary honesty if he jobbed and log-rolled only for the especial benefit of his ward.

In New York, in Brooklyn, in Chicago and other cities the ward system has not existed for some years. In New York sixteen aldermen are elected by districts and six by the city at large. In Brooklyn twelve aldermen are elected by the four districts and seven by the city at large. The mere abolition of that system where it existed did not prove sufficient even with such protection as the use of the veto by the mayor could afford. In Boston, Brooklyn, New York, Philadelphia, Cincinnati and other cities the city council now wields little more than legislative authority. The executive power is placed mainly or wholly in the hands of the mayor who appoints or nominates all the municipal officers who are not elected by the people, and is held personally responsible for the manner in which they discharge their duties. In New York the mayor appoints all the heads of departments without reference to the council, as none of the city officials are elected in that city. In Brooklyn the auditor and comptroller are elected and the mayor appoints all the others. In Boston, Philadelphia, Chicago and St. Louis the mayor nominates and on his nomination the council appoint all the officers who are not elected by the people. This practically places the appointing power in the hands of the mayor. In New York a board of estimate of which the mayor is head, and the comptroller, the president of the board of taxes and the president of the board of aldermen are the other members, prepare the estimates for the year after having received the reports of the heads of departments, and although the estimates are submitted to the council the board, if unanimous, may override any objections made by that body. Nowhere else does a body so slightly connected with the council possess such power. In Brooklyn

there is a similar board, but the council may reduce any of its estimates. In other respects the council has more power than that of New York. The law requires several sums to be provided for services named. In nearly all cases the council makes all appropriations except such as are provided for by statute even though the estimates may be prepared by another body or be subject to the revision of such a body.

But the mayor is not as absolute in those cities as may be supposed. The statutes provide expressly for the organization of the departments of the city service. The charter of the city of New York, for instance, provides that there shall be eleven departments which it names, states what the duties of each shall be, how its affairs shall be managed and how many subdivisions or bureaus there shall be in each. It provides also what the salaries of the heads of departments, of the commissioners composing the board which manages such department as police, health, charities and corrections and of the members of the board of aldermen shall be. Where the salary is fixed by the council it cannot afterwards be changed during the term for which the officer has been elected. The department of public works has charge of all work on the streets, such as laying down sewers and drains, laying down water pipes, grading, paving, flagging, curbing and guttering streets, laying down sidewalks, superintending the laying of gas pipes and the lighting of the city, the removal of encumbrances, the repair and maintenance of public buildings and the collection of the revenue from the sale and use of water. In this department there are eight bureaus and the duties of each are prescribed by the statute. The head of each department appoints all his subordinates. The mayor may not remove the head of a department whom he has appointed except for cause, and that cause must seem sufficient to the governor of the state. As the heads of departments and commissioners hold office for various terms no one mayor appoints them all. In Brooklyn the head of a department can be removed only on application to the courts. In Cincinnati it has been thought advisable to place the executive power in the hands of a paid board of five members appointed by the governor of the state, and holding office for five years. This board, called the board of public affairs, prepare estimates for all ordinary expenditures and submit them to the council by whom they may be amended. No appropriation for such expenditures can be made without the approval of the council, but after both bodies have agreed as to the estimates these are submitted to another board, of which the mayor and comptroller are members, and by this board any items of the estimates may be reduced. Large expenditures for the permanent improvement of the streets are placed absolutely under the control of the board of public affairs. The police are under the control of another board whose members are also appointed by the governor. People of all parties seem to approve of this system. So far we believe no charge of corruption, or jobbing, or extravagance has been made against the board of public affairs. The savings they effect are said to exceed, many times, the amount of their salaries.

When a comptroller has such power as is given to that officer in New York, Brooklyn, Philadelphia or Cincinnati, and uses it properly, he may do much to prevent improper expenditures and improper payments. How a man sufficiently honest and able can best be secured for a position of such enormous responsibility it may be difficult to determine. In New York the comptroller is appointed for four years by the mayor, who himself holds office only for two years. In Brooklyn, Philadelphia and Cincinnati, he is elected for two or more years.

The system in Ontario still essentially resembles that which works satisfactorily in England, and which seemed to give satisfaction in the cities of the United States, while they were comparatively small, but broke down completely in those cities when they grew so large that it became impossible for the ratepayer to ascertain from day to day by personal observation what his representatives in the city council were doing.

In Ontario all municipal elections are annual. In English boroughs the councillors are elected for three years, one-third going out each year, and the aldermen for six years. Under the new local government system the members of the county councils are also elected for three years and the aldermen for six. In the United States generally, whether the council consists of one board or two, the members are elected for more than one year,

and in many cases the mayor holds office for more than one year. The terms for which the mayors and members of the council are elected in several of the more important cities are elsewhere stated.

Powers of Municipal Councils.

It would be impossible to compare the powers conferred upon our township, village town, city and county municipalities with those possessed by the various municipal bodies in the United States, so very different is the distribution of these powers even in the different states, and so much does the Ontario system differ from all the systems in the United States. A comparison between the Ontario system and any one of the typical systems of the United States would occupy much space and would be of little practical value. It will be found that taken as a whole, the powers possessed by the municipalities of Ontario, are except in one or two matters as great as those possessed and wielded by the municipalities of any state in the union. Of the many whom we have consulted not one has stated or suggested that the powers of the township council to deal with township affairs of the village, or town council to regulate the affairs of its municipality, or of the county council to do all that is expected of it are insufficient. A careful examination of the consolidated municipal law, leads to the conclusion that only such changes should be made in any of the sections which define the powers of the municipalities as actual experience may prove to be desirable. Complaints were made by some, of excessive expenditure; by others, of neglect or of waste. The complaints as to the manner in which property and income are assessed were numerous, as were the suggestions as to the best mode of obtaining a satisfactory or an equitable assessment. The present system of audit too was complained of by many as unsatisfactory, and changes in the system were suggested as is elsewhere stated, but no one suggested that the evils complained of could be remedied by an increase of the powers of the municipal councils. In all the recent changes made in cities of the United States, protection against abuse of the powers possessed by the municipal authorities has been the main object. Whether such protection is required in Ontario, and if it is, what are the means by which it can be attained, are questions of much importance.

We have heard it urged that a city so large as Toronto could be better governed if it had a charter of its own. On enquiry it was generally found that those who desired a separate charter meant that the city council should have unlimited power in all that relates to the city, and be practically independent of legislature and parliament. Municipal institutions on such a basis exist only where the municipality and the state are coterminous and identical. In eleven states of the union special charters are now absolutely prohibited. Where, as in the state of New York, special charters are still given, there is not as far as we could discover by a very careful comparison, any one that confers larger powers upon a city government, than are conferred by the municipal law of Ontario. Mayor and council acting together, have as much power in any city of Ontario as in Boston, Brooklyn, Buffalo or New York. Amendments are frequently asked for, it is true, as actual experience shows, that a change in our local improvement system is desirable, or that the provision made in some chapter or section is not precisely what was intended or what is necessary. It would be well perhaps if changes were not so often made, but changes are quite as frequent and as numerous where special charters are given.

We have described briefly in outline the powers of the various municipal bodies in several states of the union. A comparison of these descriptions with the provisions of titles, one, two, three and four of part seven of the Ontario Municipal Act, with part eight and with other acts relating to matters municipal will show that the powers conferred on the municipalities to purchase, expropriate and hold properties required for public purposes, to erect, repair and maintain public buildings, to lay out, construct, repair, extend, or alter highways, to construct and maintain bridges, to construct and maintain sewers and drains, to lay out, grade, extend, alter, widen, pave, macadamize or gravel, clean and light streets, construct sidewalks, provide or regulate waterworks and gasworks, establish and regulate markets, construct and regulate wharves

and slips, and do all else that a municipality ought to do, are essentially alike, although the manner in which the work is to be done or the agency is not always the same. So it will be found that the provisions as to the manner in which roads lying between counties or between townships are to be built and maintained, and works in which different counties or townships are interested are to be carried out, as to the manner in which townships may be compelled to do what the law requires, and differences between municipalities are to be settled, are essentially the same, although differing in some respects, and especially as to the manner in which they are carried out. It will be observed that there is much difference in the manner in which school affairs are managed, the police are organized and governed, and liquor licenses are regulated, and that the tendency is to withdraw the control of these matters from the municipal councils and to place it almost exclusively in special boards.

Large powers as to the location and management of railroads are given to the county, city and village municipalities in some of the states. The Ontario Railway, Street and Drains Act authorizes any municipality to establish, open, make, maintain, improve, enlarge or widen, alter, divert or stop-up a public highway or drain over, under, along or upon any railway and any lands of a railway company. Section 550 of the Municipal Act gives the municipalities similar powers. The Railway Act also authorises the municipal authorities to lay down water mains on the lands of a railway company, subject in certain cases, to the approval of the commissioner of public works. The Act protects the rights of the railroad and provides that compensation must be made for lands taken or injuriously affected. It is provided that all street crossings constructed under the Act shall thereafter be kept in proper repair by the railway company and all drains by the municipality, and that when a highway crosses or is intended to cross a railway it shall be the duty of the municipality to establish, keep and maintain such street and highway so that the level of the same where it approaches and adjoins the railway shall for a safe and reasonable distance not rise above or sink below the railway more than one inch. The company are required to keep in proper order that portion of their track which the highway crosses. When a railway is to be constructed the company are required to prepare a map and plan of the proposed road and a book describing the properties through which it shall pass and the owners' names. A copy of each of these certified by the commissioner of crown lands must be deposited in the office of the clerk of the peace in each of the counties through which the road is to pass. No deviation of more than a mile from the line of railway thus described is permitted "save in such instances as are provided for in the special Act." Section eleven limits the quantity of land that may be taken without consent of the proprietor for roadway, and for "stations, depots or fixtures." A greater quantity can be taken at any time only on application to the commissioner of public works, who must be satisfied that an increase is necessary in the public interest. Section 29 provides that a railway shall not be carried along an existing highway, but merely across it unless leave has been obtained from the proper municipal authority, and no obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and on completion of the works replacing the highway under a penalty. But these provisions do not give to the municipal authorities such powers as to the location of railroads as the laws of some of the United States give even to the municipal councils of villages. In Ontario a railway may be run across all the principal thoroughfares of a city or town at any level that suits the company, and the council has no authority to do more than to require the crossings to be kept in order. Only when it is proposed to carry a railway along a highway is the consent of the council required. The power given to the municipalities in many of the United States for the protection of the property and other rights of the people in such cases are very much greater. It is contended too that the laws of Ontario have no force as regards railroads chartered by the Dominion Parliament or declared by that body to be for the general benefit of Canada. The same question arises as to the powers of the Lieutenant-Governor in Council to compel a railroad company to substitute permanent for swing bridges or to carry a highway or street over the railway by means of a bridge, or under by means of an archway, when the level crossing previously existing has been pronounced dangerous by the commissioner of public works.

Highways.

From a very remote period the construction of the highways and bridges was considered a work of national importance as great as that of constructing fortifications and rendering military service, and yet it was entrusted mainly to the local authorities. It was divided between the tunscepe or tithing, the hundred and the shire, when that was formed, very much on the principle on which it is now divided between township and county in Ontario. When the township became the parish the vestry provided for the construction and maintenance of such highways of a thoroughly local character as were then thought necessary. In later years highway districts were created and highway boards to lay out, establish, construct, improve and maintain district roads and bridges. How the cost or the labour was distributed amongst the people of the township in the more remote period it is difficult to ascertain. That was settled at the folkmoot. It is probable that as in the Province of Quebec at the present day the occupant of land fronting on a roadway was required to keep the road in front of his farm in repair and that the statute labour system is a survival of the system of that period. Statute labour has not been enforced in England for many years. The great highways were in charge of the county authorities and were provided for by the Quarter Sessions while that body controlled county affairs. The toll roads were exceptions. These were not private property as in Ontario and in many of the United States, but were managed in the public interest by bodies known as turnpike trusts. The cost of construction, of maintenance and of management was met by tolls. The toll system has been abolished and the turnpike roads and other county roads are now managed by the county councils which have succeeded to the powers of the Quarter Sessions except in those cases in which the charge was thought more properly to devolve on the highway boards. All are paid for by rates levied by the proper authorities in each case. The system in the United States is essentially the same in the counties which have township organization. In those the township provides for the construction and maintenance of all roads and bridges of a local character within their own borders. Great public thoroughfares in which the whole county is interested, bridges on such thoroughfares; and in most cases bridges over all large rivers of more than a certain width are in charge of the county authorities. In most cases the county authorities have the right to take charge of any road or bridge though wholly within a township if they believe it to be of general importance and they have the right to construct bridges connecting townships and roads along the borders of townships, either at the general expense or at the expense of the townships immediately interested as may seem just. A county may contribute to the cost of a township road or bridge in which it is interested and a township to the cost of a road or bridge undertaken by the county or by another township. Counties may unite in the construction of a bridge connecting them. There are some varieties of detail, but the general principles are the same in these states as in Ontario. In some states, however, the township can only determine what work should be done, what amount should be expended and what tax should be levied. The expenditure proposed must be approved of by the county board and by that board the proposed tax is levied. In nearly all cases the county authorities have power to compel the township authorities to do such work of this description as seems necessary. In most cases the statute labour is employed in the work of the township and the rate imposed is only what according to the estimates is required in addition to the statute labour. In all the states, as in Ontario, a money payment may be substituted for statute labour at a fixed rate of commutation and in some a man instead of paying in money any rate for road improvements for which he is assessed in addition to his statute labour may pay it in labour at a fixed rate. Statute labour seems to have been chiefly relied upon everywhere at first for the making and repairing of roads and there is still much unwillingness in many quarters to substitute a money rate for it. In the states in which there is no township organization the county board whatever its name controls as the Quarter Sessions did formerly in the districts and afterwards in the counties of Ontario the construction and repair of all roads and bridges that do not belong to corporations or to private individuals, and levy all rates.

Sections 524 to 568, inclusive of the Ontario Municipal Act give to the councils of the various municipalities powers as ample for laying out, constructing, repairing, enlarging, extending, changing and repairing highways as are given to the municipalities in any state of the union. Clear distinction is made between the powers and duties of the county, the township, the town and the incorporated village. The minor municipalities construct and maintain highways and bridges of an essentially local character employing their own statute labour and levying a rate in aid. Anyone municipality may contribute to the expense of a work in another in which it is interested. A town or village may purchase from the county and maintain at its own cost any bridge or road which it is especially interested in maintaining. The county may with consent of the municipality assume as a county work any road or bridge within any township, town or village. Townships are bound to maintain in good condition the roads built along the boundary line if the county do not undertake the construction and maintenance of such work, but bridges across rivers which form (or where they cross) a township boundary are always under charge of the county council. If any township neglect or refuse to do its share of work on a road along a boundary line the county council is empowered to enforce its performance, and if it be done through a county commissioner to levy on the defaulting township a rate sufficient to cover the expense. The county council may lay out, construct, extend, change or stop up county roads, taking whatever land or materials may be necessary paying the value thereof, and it must maintain bridges that cross boundary streams and all bridges in villages that cross streams or rivers of more than 100 feet in width, and connect any main highway leading through the county. Provision is made for the construction of bridges over rivers dividing counties. The county council may require that "the whole or any part of a county road within any local municipality shall be opened, improved and maintained by such local municipality." * The whole highway system seems complete and well ordered. The almost unlimited power to establish toll roads remains in the statute book to show that the establishment of such roads was at one time considered desirable.

Streets.

In England, the making, maintenance and cleaning of streets appear to have been regarded for ages as the duty of the owners of the property on each side. When the boroughs all passed into the hands of close corporations whose members regarded the borough revenues as their own property, it was found necessary to get all works of importance done by trustees appointed under special acts of parliament, and special boards were created from time by acts of parliament even to provide proper systems of sewerage and do much else that should have been the duty of the municipal authorities. To this day many authorities exist where there should be but one. In some of the cities of the United States the old system was introduced. In some it has never been essentially changed, but in nearly all it became the duty of the city council to lay out, establish, construct, change, extend, repair, maintain, light and clean streets, gutters, sidewalks and sewers. For years all this work was paid for by a general rate, the council determining each year how much money should be raised in that way and where it should be expended.

Local Improvements.

The system of making street improvements at the expense of the properties to be immediately benefited which is really a return to the very oldest system has grown much in favour of late years. Sewers are constructed and maintained, streets are laid out, widened, altered, extended, graded, paved, swept and watered, and sidewalks are constructed and maintained on this principle now where a few years ago all street work, whether of construction or improvement, was undertaken when the council chose, carried out as the council chose, and paid for out of the general street fund. For some years after the local improvements system was introduced improvements

* Municipal Act, section 566, sub-section 6.

under that system could be made only when in some cases a majority, in others two-thirds—in number and amount—of the property owners petitioned the council. In some cities of the United States all street work has at all times been done by the owners of the abutting and adjacent property at the order and under direction of the city council, or by the council at the expense of the owners. In some of these cities the council may order such portion of the cost as they think just to be paid out of the general city fund. In general, however, the local improvement system is applied to special districts or special work in a district. In some cities of the United States it cannot be put in operation until a sufficient number of the property holders of a district apply to the council by petition. In others the council may, by a mere majority, order any improvement to be made under this system, but if a majority of the owners of property in the district petition against it the work cannot be undertaken unless ordered by a two-thirds majority of the council. The manner in which the cost of the improvements is distributed varies considerably. In some cases the council determine what the limits of the district to be taxed shall be, and what proportion of the cost each property within that district shall bear. In other cases commissioners are appointed by the courts on application of the council, and these determine what properties will be benefited and what share of the cost each should bear. Parties who think themselves aggrieved have the right to appeal to the courts. Generally each property is assessed in proportion to the benefit which the civic officials or the commissioners may think it will derive from the improvement. Where the improvements or any part of them are of public benefit the city usually contributes part of the cost. In one state the properties pay but \$1.50 per foot frontage for a main sewer. No matter what the cost may be the city pays the rest.

In Ontario the council of every township, city, town and incorporated village may now pass by-laws for providing the means of ascertaining and determining what real property will be immediately benefited by any proposed improvement, the expense of which is proposed to be assessed . . . upon the real property benefited thereby; and of ascertaining and determining the proportions in which the assessment is to be made on the various portions of real estate so benefited . . . for assessing and levying, by means of a special rate, the cost of deepening any stream, creek, or watercourse, and draining any locality, or making, enlarging or prolonging any common sewer, or opening, widening, prolonging or altering, macadamizing, grading, levelling, paving or planking any street, lane, alley, public way or place, or any sidewalk, or any bridge forming part of a highway therein, or curbing, sodding or planting any street, lane, alley, square or other public place, or reconstructing as well as constructing any work hereby provided for." This does not apply to any work of ordinary repair or maintenance, and the works constructed under this section are kept in repair at the general expense. If a majority of the owners of real property in the district, representing at least one-half in value, petition against the improvement, it shall not be carried out then, and no second notice of assessment for it shall be given by the council within two years. But if such petition be not presented within one month, or if before the improvement has been determined upon a petition in favor of it, signed by two-thirds of the owners of the real property to be benefited by it, representing at least one-half the value, has been presented to the council, they "proceed to the execution and completion of such work with as little delay as possible." In ascertaining the cost of draining any locality, or making or prolonging any common sewer, the council may estimate the cost of construction of branch drains to the line of street and include it in the assessment.

The council may borrow money for carrying out the proposed improvements in order to avoid the necessity of making supplementary assessments, or refunding money in case of over-assessments, or they may make several assessments until sufficient has been realized to pay for the improvements. They may make by-laws regulating the time or times and manner in which the assessments levied are to be paid, and for arranging the terms on which parties may commute their proportional share of the assessment, but the debentures on which, in such cases, the money required is raised, must mature within the probable life of the work for which the debt has been incurred.

The special rate levied to meet the payments under such arrangements is "an annual rate according to the frontage thereof upon the real property, fronting or abutting upon the street or place whereon or wherein such improvement or work is proposed to be done." But section 614 provides that the council may provide a special equitable mode of assessing corner lots and other lots irregularly shaped; section 617 provides that when the lands on either side of a street, lane or alley are from any cause unfit for building purposes the council may determine what part, if any, of the cost of the improvements such lands should bear; section 618 authorizes the council to determine whether other lands than those fronting on the street or place wherein or whereon improvements are made are benefited by them, and what proportion of the cost they should bear, and section 619 provides that the amount to be contributed by such property shall be assessed by a frontage rate. The council may determine that a portion of the cost of such improvements should be borne by the municipality and may issue debentures to provide such share. When the improvement is a common sewer having a sectional area of more than four feet one-third of the whole cost must be "provided for by the council." The council must also bear the cost of all culverts and other works necessary for street surface drainage, of what is chargeable to public sewers on account of street intersections and of that part of the cost chargeable to real property which by any Act is exempt from special or local assessment.

Property assessed for local improvements is, for such period as may be determined by agreement or arbitration, exempt from the general assessment for like purposes, except for the cost of work at the intersection of streets and such portion of the general rate as may be imposed to meet the cost of like works opposite real property which is exempt from such special assessment. Appeal from assessments for local improvements may be taken to the court of revision and from that to the county judge.

Section 625 provides that the council of any city, town, township or incorporated village may by a by-law passed with the assent of the electors . . . direct that all future expenditure . . . for the improvements and services or for any class or classes of improvement or service, for which special provisions, are made in sections 612 and 629, shall be by special assessment on the property benefited and not by law exempt from assessment. Section 630 authorizes the councils of townships and villages to provide light and water as local improvements, the cost to be borne by the property benefited, and sections 631-3 authorize county councils to raise a sum sufficient to defray the expense of making, repairing or improving any road, bridge or other public work lying within one township or between parts of two townships by assessment on all ratable property specially benefited by such improvement described by metes and bounds in the by-law. But such by-law can be passed only when petitioned for by at least two-thirds of the electors rated for at least one-half of the value of the property within the parts to be affected by it, and such by-law must not apply to any public work within the limits of any town or incorporated village. A county council may also, by by-law approved by the electors of the district, assume or acquire a road or bridge lying within or adjacent to one or more townships or incorporated towns or villages, and may raise a sum of money for the improvement thereof by way of loan to be repaid by a "special assessment on all the ratable property within the municipalities which shall be immediately benefited by such road, bridge or public work."

DRAINAGE.

We have described at some length the drainage systems of some of the United States. The chief object, wherever any drainage system has been adopted is to make it as simple, as easily worked, as effective and inexpensive as possible. In some cases power is given to the authorities of the township to organize the owners of the lands to be drained, if they are all within the township; and they elect their own officers and determine at their own meetings what works are necessary and what part of the work each should do, or what part of the expense each should bear. In other cases the township authorities appoint officers who determine what works are necessary, what lands will be benefited, and what part of the cost each parcel of land should bear. When the land to be drained extends into two or

more townships, the authorities of both or the county authorities must act. In nearly all cases it is required that the majority of the owners make application to the authorities of the township or of the county. In some States application is made in the first case to the county court. In that case the judge appoints commissioners, who prepare a map showing what lands are to be affected, a plan of the work necessary, an estimate of the cost and of the amount which the owner of each property should pay. Appeals may be made from their decision to the Judge, who, if he sees fit, may appoint other commissioners to enquire and report. In some cases a jury is empanelled to decide all questions raised as to the necessity of the work, the benefit which any of the parcels of land would derive from it, and the amount of damage that may be done in any case. The amount awarded for damages to the owner of any property to be drained is usually set off against the proportion of the cost for which his property is assessed. In some cases the owners are required, in others they are permitted, to do a share of the work, and to maintain in good condition that part of the dam or ditch. Means are provided in all cases of compelling the unwilling or negligent to contribute or to do their share.

Section 479, sub-section 15, of the Ontario Municipal Act authorizes the councils of municipalities to make by-laws "for opening, making, preserving, improving, repairing, widening, altering, diverting, stopping up and putting down drains, sewers and watercourses within the jurisdiction of the council, and for entering upon, breaking up, taking or using any land in any way necessary or convenient for the said purposes subject to the restrictions in this Act contained." Section 489, sub-section 21, authorizes the council of every township, city, town or incorporated village to pass by-laws "for compelling the owners of land through which any open drain or watercourse passes to erect and keep up water gates where fences cross such drain or watercourse and for preventing persons obstructing any drain or watercourse." Section 509 authorizes the council of township, town or village to make by-laws "for borrowing money and issuing debentures therefor for the purposes and subject to the provisions of the Drainage Act." Section 521, sub-section 12, authorizes the council of a township to purchase wet lands within the municipality from the government or from private owners, to drain such lands, to raise money for the purpose by loan or otherwise, applying to this purpose any of their funds not otherwise appropriated, and to hold such lands or to sell or otherwise dispose of them at public auction. Section 522 provides that whenever a stream or creek in a township has been cleared of all logs, brush or other obstructions to the town line the council may serve notice in writing on the head of any adjoining township into which the stream flows and it shall be the duty of that council to enforce the removal of all obstructions in such stream within their municipality within six months from the time such notice has been received. These powers it is evident are conferred chiefly in the public interest, but a judicious use of them would necessarily be of much benefit to individuals.

The local improvements clauses of the Municipal Act provides that by-laws may be made for deepening any stream, creek or watercourse or draining any locality, and that the engineer may charge to the lands benefited by such work such proportion of the cost as he may deem just.

The Ontario Act respecting ditches and watercourses is simple in its provisions. The fourth section provides that "in case of owners of lands, whether immediately adjoining or not, which would be benefited by making a ditch or drain or by deepening or widening a ditch or drain already made in a natural watercourse, or by making, deepening or widening a ditch or drain for the purpose of taking off surplus water or in order to enable the owners or occupiers thereof the better to cultivate or use the same, such several owners shall open and make, deepen or widen a just and fair proportion of such ditch or drain according to their several interests in the construction of the same, and such ditches or drains shall be kept or maintained so opened, deepened or widened by the said owners respectively, and their successors in such ownership, in such proportions as they have been so opened, deepened or widened unless in consequence of altered circumstances the engineer hereinafter named otherwise directs." Every such ditch or drain shall be continued to a proper outlet so that no lands, unless with the consent—in writing—of the owner thereof, will be overflowed or flooded through or by the construction of any such

ditch or drain, and it shall be lawful to construct such ditch or drain through one or any number of lots until the proper outlet is reached.

The whole work may thus be done by the owners themselves if they agree. If they do not agree any one of their number may notify the others to meet on a day named at some place near the ditch or drain. They may then come to an agreement, and if so the agreement must be reduced to writing and signed by them all. If they do not agree an application may be filed with the clerk of the municipality. If the owners number five or more the application must be signed by a majority. If the council of the municipality in which the greater part of the work is to be done approve of the proposed work, after opportunity has been afforded to all who are interested to be heard, the matter is referred to the engineer of the municipality who, being notified by the clerk, examines the place, hears any evidence that is offered or that he may require and reports. If he thinks the work necessary "he specifies" in his report the locality, description and course of the ditch or drain, the points of commencement and termination of the same, the portion of the ditch or drain to be done by the respective parties, the time within which the work is to be done, and the amount of fees and other charges and by whom they are to be paid. He is not "to assess or bring in without his or their assent more than one additional interested person when the majority of those notified and interested are opposed to being so brought in or assessed," and he is not "to include or assess the lands lying more than fifty rods above the point of commencement of the ditch or drain upon the lands mentioned in the notice . . . nor the lands on either side of the ditch or drain which lie more than fifty rods from the drain and only so much within such fifty rods . . . as will be benefited . . . and then only in proportion to the benefit." The engineer may award that the ditch or drain shall be opened across the lands of parties not interested at the expense of those who are interested, "and thereupon the parties may open the ditch or drain across such lands without being trespassers, but causing no unnecessary damage and replacing any fences opened or removed by them." The report having been filed with the clerk of the municipality due notice is given to all the parties interested. If any feel aggrieved they may appeal in the manner prescribed to the judge of the county court. One of the complaints made to us respecting the laws relating to drainage was that they provide an unnecessarily complicated system of appeal, which in some cases proves excessively expensive. The appeal provided for under this Act in its present form is simple and should be inexpensive. If there is any rock-cutting to be done the engineer may get the work done under contract, let at public competition, and determine the portion of the cost which each of the persons interested should pay. If any of the persons interested do not, within the time specified or such extension of the time as the engineer may allow, complete the portion of the work assigned to him the engineer may let that portion of the work under contract, after due notice has been given to the person interested. When the work has all been completed to the satisfaction of the engineer he makes a report to that effect and in it states what the cost of the work done under contract is what the charges are, and what amount each of the parties interested should pay. If in any case this is not paid after the parties have been notified, the amount with seven per cent. added is placed on the assessment roll and is a lien on the land. The municipality pays the contractors and the engineer.

If one of the owners neglects to keep his part of the work in repair any other owner may notify him and if, after the notice, the defaulter do not make the repairs the other owner may apply to the council of the municipality who thereupon shall order their engineer or inspector of drains and ditches to inspect and report; if he report that the complaint is well founded the council shall, subject to the owner's right of appeal, order the engineer to get the work done by contract, unless the owner himself meantime do the work. The fees of the inspector or engineer must be paid by the defaulting owner if the complaint prove well founded; otherwise by the complainant.

The owner of any land through which a ditch or drain passes may cover it by permission of the engineer, and in such manner as he may direct, but not so as to impede the free flow of water.

The work on a drain or ditch may be extended into another municipality. In this case if it be carried on under direction of the municipality in which the work originated, due notice is given to the clerk of the other municipality of the award of the engineer, and of the amount which each owner in that other municipality is required to pay and a copy of every certificate of the engineer which relates to the lands in that municipality; "and the municipal council shall, unless the amounts are forthwith paid by the parties declared by the certificate liable to pay the same, have and take all proceedings for the collection of the sums so certified to be paid, as though all the proceedings had been taken and carried on in the adjoining municipality." Provision is made for using a drain for "draining other lands than those contemplated by the original proceedings" on proper terms and conditions.

In the Provinces of New Brunswick and Nova Scotia there are extensive tracts of marsh lands. In New Brunswick a general law provides that the proprietors of any tract of such land may apply to the county council which thereupon causes the tract to be divided into districts, and orders an election at which each district elects one commissioner of sewers and all so elected form one board. The Act directs how the election shall be ordered and held. The commissioners are elected for three years and may be re-elected. The board has power to do all that may be necessary to repair, strengthen or extend dykes, to cut or widen or clear ditches, drains and channels, make weirs and aboideaux and do whatever may be necessary to protect the reclaimed land or improve its condition, or to reclaim and fertilize that which is still waste; but no work of reclamation can be undertaken without the approval of two-thirds of the proprietors. Whenever any work is to be done the commissioners notify the owners stating to each what his share of the labour or the cost may be, and the owner may send a sufficient number of labourers with proper tools at the time appointed to do his share of the work. If any do not then supply the labour required the commissioners employ men to do the work and charge the owners. In some cases, the owners so wishing, the commissioners employ all the labour required. For any expenses so incurred, for their own fees and for all other charges they assess the owners according to benefits, and they have power to enforce payment. In Queen's County, whose situation is different from that of the other counties interested, the county council appoint the commissioners. In certain cases the commissioners may, on application of the owners, be appointed by the Lieutenant-Governor. In Nova Scotia the Lieutenant-Governor may in some cases appoint the commissioners, but the proprietors may, when they choose, select commissioners. It is left entirely to the proprietors to determine how many commissioners there shall be, and in what manner they shall be selected. Two-thirds of the proprietors may at any time, by an order in writing, increase or decrease the number of commissioners, or cause the displacement of some or all of them. The commissioners have powers similar to those of the other province, but whenever the expenditure is to exceed one and a half dollar per acre, they must call a special meeting of the proprietors at which assessors are to be elected to act with the commissioners. In both provinces an appeal may be made by any owner against the assessment.

Chapter 38 of the Revised Statutes of Ontario in order to encourage the laying down of tile, stone and timber drains, authorizes the council of any town, village or township, to borrow in sums of not less than \$2,000 an amount not exceeding \$10,000, to be lent to the owners of land for such purpose. The debentures must be for \$100 each, or a multiple of \$100, be payable to the Treasurer of Ontario or order, and have coupons attached equal to \$7.36 a year for each \$100 for twenty years, this being the amount required to pay off principal and interest within that time. The council, on report of their inspector of drainage, whom they are required by the Act to appoint if they desire to raise money for this purpose, may lend to any owner of land a sum not exceeding 75 per cent. of the estimated cost of the drainage of his land, provided that the amount which must be levied to pay off the loan and the rates levied for other purposes, exclusive of school rates, shall not exceed three cents on the dollar, and that the amount lent in any one case shall not exceed \$1,000. The debentures must be deposited with the Provincial Treasurer, by whom they are sold as required, if, on the council having made

application in writing stating the amount required, and the name of the person or persons to whom it is to be lent the Minister of Agriculture, having made sufficient investigation report approvingly of the proposed investment. No part of the money is given to the borrower until the inspector reports that the work proposed has been completed. In his report he states the number of rods of drain constructed on each parcel of land, the cost per rod, and other particulars. The council levy annually on the land so improved for the term of twenty years a special rate of \$7.36 for each \$100 loaned, over and above all other rates, and make an annual return to the Lieutenant-Governor showing the amount of money borrowed, the number of rods of drainage constructed, the names of the borrowers, and a description of the land upon which the money has been lent and the names of those whose applications have been refused. An owner may at any time pay off what remains due of the amount lent to him. The loans under this Act are a first charge upon the funds of the municipality and provision is made for enforcing the application of the general rates to the payment of arrears, should any accrue, and of seven per cent. interest thereon. The Government are authorized to invest any surplus of the Consolidated Fund, not exceeding at any one time \$200,000 in the purchase of debentures issued under this Act.

The "Act respecting Municipal Debentures issued for Drainage Works," provides that when a township municipality proposes to carry out any of the drainage works authorized by any Municipal Act, and makes application in due form, and the Commissioner of Public Works having made investigation reports to the Lieutenant-Governor approving of the investments and "the aggregate amount of the rates necessary for the payment of the current annual expenses of the municipality and the interest and principal of the debts contracted by it do not exceed the aggregate value of three cents in the dollar on the whole value of the ratable property within its jurisdiction," and the debentures to be issued do not exceed \$30,000, the issue of debentures to the amount required may be authorized. The Lieutenant-Governor in Council is authorized to invest any surplus of the consolidated revenue not exceeding in the whole at any one time \$350,000 in the purchase of debentures under this Act, and may advance the whole par value in any case or retain a percentage until the works proposed have been completed. The amount invested in the debentures of any one municipality at any one time shall not exceed \$20,000. The treasurer of the municipality is bound to remit to the Treasurer of the Province the amount payable under the by-law for principal and interest of such debentures within one month after it has become exigible. In case of default the arrears become a first charge on the general funds of the municipality, the council are required to levy in the next year upon the whole rateable property within its jurisdiction to pay in addition to all other demands upon it the amount in arrears, with interest at the rate of seven per cent. per annum, and if payment be not made and the municipal treasurer pay out of the general revenue any sum whatever, except the ordinary current disbursements and salaries, the treasurer, reeve and councillors are made jointly and individually liable for the full amount in arrears with interest and costs.

Another very important law for the promotion of drainage is "the Act respecting the expenditure of public money for drainage works." By this it is provided that the commissioner of public works may on the written application of the council of any municipality, asking for drainage works within the municipality or along a town line of the municipality, or on a petition of a majority of the owners of a tract of land asking that it be drained, undertake and complete the same, and may if necessary extend the work into other municipalities. The surveys are made and the work is carried on by the officers of the commissioner of public works, but after notice given by the commissioner the council of any municipality, in which or along which drainage works have been so executed, appoint three assessors to assess all lands and roads benefited by such drainage. The commissioner furnishes to those assessors a map of the district with the drain or drains marked upon it, a statement of the amount expended, not including the cost of preliminary surveys, and all such other documents as may seem necessary. A copy of the assessment is deposited with the clerk of the municipality. Any person interested who is dissatisfied with the assessment may appeal to the court of revision of

the municipality, and from the decision of that court an appeal lies to the county court judge. Some of those who gave evidence on this matter thought it would be better if appeal were to be made in all cases directly to the county judge. When a municipality in which the work has not originated is assessed for benefits derived from it and is dissatisfied, it may appeal, and in such case the matter is referred to arbitrators, of which one is appointed by each of the municipalities, and the third by the two, or if they do not make an appointment within the time named by the judge of the county court; the decision of two of the arbitrators is final. If in any case error be discovered in the assessment roll after it has been filed with the commissioner of public works, or with the registrar of the district, it may be corrected on application to the county court judge. The council of every municipality in which drainage works have been completed, must, within three months after the assessment roll has been filed, pass a by-law requiring that the amount charged against each lot of land as the amount to be paid each year in liquidation of the cost of the works and interest be placed on the collectors' rolls. This becomes a rent charge on the land and is collected as other taxes, but any owner may pay off at once what is charged against his land or what remains due on account of the assessment for the work. The council are required to remit the whole amount to the treasurer of the province every year, whether it has been actually collected or not, and in case of default, the treasurer, reeve and councillors of the municipality are made personally liable if they pay out of the general fund anything except for ordinary current expenses until this has been paid. The Lieutenant-Governor-in-Council may postpone the payment of arrears when circumstances render it expedient. Any amount charged against crown lands is paid by the commissioner of crown lands. Provision is made as to the settlement by arbitration of any claims for damages, the settlement of differences between municipalities, when more than one is interested, between the assessors appointed by such municipalities, for apportioning the amount to be paid, between the owner and occupant of any land held under lease, and for maintaining the works completed under this Act and keeping them in repair. The amount that may be expended by the provincial government under this Act, must not, when added to any sums expended under previous Acts and still due, exceed \$200,000.

Clauses 51-57 of the Public Works Act empowers the commissioner to employ competent engineers and surveyors to make the necessary examination, surveys and levels of any swamp or bog land occasionally or permanently flooded with water. The commissioner is required to submit in his annual report a statement of the results of such examination and of the cost of reclaiming the lands and his recommendation respecting the same; the approval of the legislature having been obtained he is empowered to make contracts for the construction of drains, bridges, roads, dams, dykes, slides and other works necessary to prevent the flooding of such land or to carry off the water and render the land available for cultivation, and when the works have been completed to appoint overseers to take charge of them. He may stop the construction of a mill-dam, embankment or other obstruction in a stream which a competent engineer reports will cause land to be flooded. He may order the removal of a dam already constructed, or cause a slide to be placed in it. The owner of such dam or embankment is awarded such compensation as he is fairly entitled to, his previous rightful or wrongful action in the matter being taken into account. Arbitration when necessary is provided for.

In none of the northern states of the union, east or west, does a state government afford such assistance in the draining of marsh lands in the hands of private owners, or itself engage to such an extent in the reclamation of such lands. We have not been able to examine as we would wish the laws of those western and southern states which are compelled to do all in their power to protect their low-lands from the floods of the Mississippi and other rivers. In Ireland, although, but a very small part of what is desirable and even necessary has yet been done, the government have done much directly, and by advances to land owners for works to be completed under supervision of government engineers, to prevent ravages by floods, and to promote the drainage of fertile lands rendered valueless by stagnant water. What more Ontario could do in this direction by legislation no one has ventured to suggest, unless indeed that the expense of determining

the amount which each interested land owner should contribute to the cost of any drainage works, or of awarding damages when damage to any results from such works could be reduced, as some insist it could.

ASSESSORS AND ASSESSMENT.

The general Municipal Act of Ontario, section 254, provides that the council of every city, town, township and incorporated village shall, as soon as may be convenient after the annual election, appoint as many assessors and collectors for the municipality as the assessment laws authorize or require. The Act relating to the assessment of property, chapter 193, section 12, provides that "the council of every municipality except counties shall appoint such numbers of assessors and collectors as they may think necessary," and—section 13—"may assign to them the district or districts within which they shall act, and may prescribe regulations for governing them." Section 255 of the Municipal Act provides that "in cities the council, instead of appointing assessors under the present section, may appoint an assessment commissioner who, in conjunction with the mayor for the time being, shall from time to time appoint such assessors and valuers as may be necessary, and such commissioner, assessors and valuers shall constitute a board of assessors, and shall possess all the powers and perform the duties of assessors appointed under the last preceding section."

In those states of the union in which township organization exists, the assessors for the townships are elected annually at the township meetings. In some, as in Michigan, the supervisor or other head of the municipality is also the assessor. In some states the whole work of assessment for state, county and township purposes is done by the township assessors; in others all assessments and collections are made by the county officers. In cities generally the assessors are appointed by the council, but in New York, Brooklyn and some other cities they are appointed by the mayor.

The valuation of property is not always made by the assessors. The constitution of the state of Massachusetts provides that "while the public charges of government, or any part thereof, shall be assessed on polls and estates in the manner that has hitherto been practised in order that such assessment may be made with equality there shall be a valuation of estates within the commonwealth taken anew once every ten years at least, and as much oftener as the general court shall order," and this state valuation is made the basis of municipal assessment on real estate. In most cases, however, the assessors set a value upon real as well as upon personal property. In Ohio the valuation of property, real and personal, is the only work of the assessors. The apportionment of taxation, according to the valuation after that has been made, is the duty of the county auditor. The admirers of the Brooklyn, N. Y., system contend that it is one of the very best systems yet devised. The amended charter of 1888 provides that "there shall be a department of assessment to consist of a president and ten assessors who shall constitute the board of assessors, who shall be appointed by the mayor as hereinbefore provided," and "they shall make up and complete by the 1st day of June in each year their valuations of taxable property in the several wards . . . and the assessed valuation of real and personal estate so made shall be entered in books kept by said board." When the collectors' rolls are made out two at least of the assessors are required to swear in each case that "they have together personally examined within the year past each and every parcel of land, house, building or other accessible property. In most cases all persons liable to taxation are required to furnish the assessors with a list of all the personal property of every kind designated in their possession. This must be sworn to, but the assessors may also examine under oath the parties furnishing the lists and any other witnesses. The Brooklyn charter says: "In determining the value of personal property to be assessed for taxes the assessors shall have the power to examine upon oath every person who they shall believe ought to be assessed for such property, and shall also have power to examine under oath such other persons as witnesses in relation thereto as they may deem proper, and for that purpose may administer oaths and issue process to compel the attendance of witnesses before them." If any person refuse to make under oath a full

disclosure of his personal property to the assessors it is their duty to assess him in such amount as they deem proper, and from their assessment in such case there is no appeal. The Massachusetts general statute provides that the assessors may, by general public notice, require all persons to bring in within a specified time true lists of all their polls and personal estates not exempted from taxation, and may require them also to include their real estate, and that "the assessors shall in all cases require a person bringing in a list to make oath that the same is true." This is the law in many other states also. The person bringing in the list may be required further to answer all questions respecting his property under oath. If any persons do not furnish a list or refuse to be examined, the assessors determine the value of his property as best they can, and from their decision there is in such case no appeal unless the party can show satisfactory reason for having neglected to bring in his list. In some places, when a person neglects or refuses to bring in a list, fifty per cent. is added to the estimated value of his property. The 42nd section of the Ontario Assessment Act provides that "it shall be the duty of every person assessable for real or personal property in any local municipality or entitled to be entered in the assessment roll as a wage earner to give all necessary information to the assessors, and if required by the assessor, or one of the assessors, if there is more than one, he shall deliver to him a statement in writing, signed by such person (or by his agent if the person himself is absent) containing (a) all the particulars respecting the real or personal property assessable against such person which are required in the assessment roll, and (b) in the case of a wage earner full particulars of the income or wages earned by him during the then preceding twelve months, and if any reasonable doubt is entertained by the assessor of the correctness of any information given by the party applied to the assessor shall require from him such written statement. The name of a wage earner shall not be entered in the assessment roll as such wage earner unless to the assessor, or one of the assessors if there be more than one, there has been first delivered by or on behalf of such wage earner a written affirmation made and signed by him "in the form given or to the like effect," and signed also by an attesting witness. Such affirmation is not conclusive. No oath or affirmation is required from the person rated on property, nor are the assessors authorized to do more in his case than demand a statement in writing. How often such statement is required and obtained we have not been able to ascertain. Section 45 provides that a penalty may be imposed upon any person refusing to furnish a written statement to the assessors when required, or who knowingly states anything falsely in such statement. In Ontario the law now requires the chief officials of every corporation whose dividends are liable to taxation to furnish to any assessor who asks for it a statement of the names of the shareholders residing in the municipality for which such assessor acts, the amount of stock held by each on the day named, and the amount of dividends and bonuses declared during the previous twelve months.

The general information contained in the returns which the assessors make to the secretary of state in Massachusetts is placed in twenty-three columns. In Ontario the general information is placed in thirty-three columns. In Massachusetts, although the state makes a decennial valuation of the real estate, the assessors value it annually also, and state their valuation in their returns to the secretary of state. In the fifth and tenth year of each decade they make a special return to his department.

In Massachusetts a person who feels aggrieved by the taxes assessed upon him may apply to the assessors for abatement, and if they refuse to make such abatement he may appeal to the county commissioners, who, upon hearing evidence, may make such abatement as they deem reasonable. In the city of Brooklyn, N. Y., the only appeal is to the assessors themselves. An appeal lies to the board of assessors, but only when a clerical error has been committed, or when there is a mistake in the name of the party assessed, or when the quantity of real estate or the nature of the buildings or improvements thereon is erroneously given; when personal property is overestimated and the person aggrieved was prevented by sickness or absence from inspecting the rolls within the prescribed time and appealing to the district assessors; or when property exempt by law has been assessed. In the city of New York property is valued by assistant commissioners, not exceeding twelve in number, who are appointed by the board of commis-

sioners—three in number—act under their direction and supervision, and make their reports to them. Persons who feel aggrieved by the assessment may, during a time specified, make application to the commissioners for redress. If the application relate to the assessed value of real estate it must be made in writing and state the grounds of objection.

In Ontario, any person complaining of an error or omission in the assessment may, within the time and in the manner prescribed, appeal to the court of revision, composed of five members of the council, of whom three constitute a quorum. This court has ample power to receive declarations, examine witnesses under oath, and confirm or amend the assessment roll. Section 68 of the Assessment Act provides that from the decision of this court appeal may be made to the county judge.

An equalization of the assessments of the different districts in a county, in order to secure an equitable distribution of the county burdens, is usually made by the county council or county board. An equalization of the assessments of the counties in a state is made by the state authorities, in order that taxation for state purposes may be fairly distributed. Powers necessary to effect such equalization are conferred on county and state authorities.

Section 269 of the Municipal Act authorizes the council of every county of Ontario to appoint two or more valuers to value the real property within the county, "whose duty it shall be to ascertain, in every fifth year at furthest, the value of the same in the manner directed by the county council," and this "valuation so made shall be the basis of equalization of the real property by the county council for a period not exceeding five years, and the equalization of personal property shall be as heretofore."

Section 79 of the Assessment Act provides that any municipality may appeal from the decision of the county council respecting equalization, to the county judge, if all so agree or to the court which the Lieutenant-Governor is authorized by this section to constitute for the purpose. Section 81 provides that, in cases where valuers are appointed by the council to value all the real and personal property within the county, they shall attest their report by oath or affirmation in the same manner as assessors are required to verify their rolls; and

Section 84 provides that where a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and by by-law direct what portion of such sum shall be levied in each township, town or village in such county or locality.

ASSESSMENT.

In Great Britain, rates for municipal purposes are levied on real estate only. Personal property is made to contribute to national purposes by means of the customs and excise duties, the income tax, the legacy duties, and various other imposts.

The Ontario Assessment Act says that land and real estate respectively shall include—for the purpose of assessment—"all buildings or other things erected upon, or affixed to, the land, and all machinery or other things so fixed to any building as to form in law part of the realty, and all trees or underwood growing upon the land, and land covered with water, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to Her Majesty;" and personal property shall include "all goods, chattels, interest on mortgages, dividends from bank stock, dividends on shares or stocks of other incorporated companies, money, notes, accounts and debts at their actual value, income and all other property except land and real estate, as above defined." Another section provides that "all municipal, local or direct taxes or rates shall, wherever no other express provision has been made in this respect, be levied equally upon the whole ratable property, real and personal, of the municipality or other locality, according to the assessed value of such property, and not upon any one or more kinds of property in particular, or in different proportions."

Real estate, for the purposes of taxation, says the law of Massachusetts, "shall include all lands within this state, and all buildings or other things erected on or affixed

to the same," and personal estate shall, for the purposes of taxation, include goods, chattels, money and effects wherever they are, ships and vessels at home or abroad, except as provided in section eight, money at interest and other debts due to the persons to be taxed more than they are indebted or pay interest for, but not including in such debts due any loan or mortgage of real estate taxable as real estate, except the excess of such loan above the assessed value of the mortgaged real estate, public stocks and securities, stocks in turnpiked bridges and moneyed corporations within or without the state; income from an annuity, from ships and vessels engaged in the foreign carrying trade within the meaning of section eight, and so much of the income from a profession, trade, or employment as exceeds the sum of two thousand dollars a year . . . but no income shall be taxed which is derived from property subject to taxation—provided that no taxes shall be assessed . . . upon the shares in the capital stock of a corporation, organized or chartered in the commonwealth, paying a tax on its corporate franchises under the provisions of chapter thirteen . . . but such shares shall be taxable to the owners thereof for school, district and parish purposes." Section eight provides that "ships and vessels engaged in the foreign carrying trade shall not, for the purposes of taxation, be included in the personal estate of persons to be taxed, but the net yearly income of such ships or vessels shall be taxed to the owner or owners thereof in their places of residence proportionally to their interests therein." Chapter thirteen, referred to above, provides that shares of stocks in banks shall be assessed to the owners thereof at their true cash value, the value of the real estate having been deducted, and that the tax commissioner shall ascertain the true value of the stock or shares in all home corporations except banks, less the value of their real estate subject to local taxation, and they shall pay on such valuation, at a rate determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth during the current year.

The description of personal property in the laws of other states is much more minute, and persons liable to taxation are required to describe and state the value of their household furniture, plate, musical instruments, jewellery, carriages, and other articles.

The principal differences between the Ontario law and that of Massachusetts and other states, as shown in the extracts given above, is that in the United States the shares of bank stock and of incorporated companies generally, are assessed at their full value, and that in Ontario only the dividends on shares or stocks are taxed; that in the United States a mortgage is taxed as real estate to its full value, the mortgagor being assessed only on the value of his property in excess of the amount of the mortgage, and in Ontario only the interest on a mortgage is subject to taxation, and that as personal property. In Ontario incomes (above \$700) are taxed as personal property. In Massachusetts only incomes from annuities and incomes in excess of \$2,000, derived from a profession, trade or employment, are subject to taxation. Virginia is the only other state that taxes income "from a profession, trade or employment."

In Massachusetts and other states savings banks which are private corporations, pay a percentage on the amount of their deposits; co-operative associations pay a percentage on the amount of their monthly dues; life insurance companies pay a percentage on the aggregate net value of their policies, and fire, marine and other insurance companies pay on the assessed value of their franchises, as determined by the tax commissioner, or on the amount of their premiums. Insurance companies not incorporated in Massachusetts pay double the rate paid by the home companies.

There seems to be some difference between the manner in which property in vessels not engaged in the foreign trade is assessed in Massachusetts and Ontario. In Ontario only the income derived from "steamboats, sailing vessels, barges and tugs," is liable to be assessed.

EXEMPTIONS—REAL ESTATE.

The law of Ontario exempts from taxation for municipal purposes all property vested in Her Majesty or in any public body or body corporate, officer or person in trust for Her Majesty or for the public uses of the province, or . . . for the use of any tribe or body of Indians, and either unoccupied or occupied by some person in an official capacity.

Every place of worship and land used in connection therewith, churchyard or burying ground, also the parsonage or residence of the clergyman, not exceeding \$2,000 in value; the buildings and grounds of and attached to every university, college, high school or other incorporated seminary of learning actually used by such institution or unoccupied; every school house, town, or city, or township hall, court house, gaol, house of correction, lock-up house and public hospital, with the land attached thereto, and the personal property belonging to each of them; every public road and way or public square; the property belonging to any county or local municipality, occupied for the purposes thereof or unoccupied; the provincial penitentiary, the central prison and the provincial reformatory, and the land attached thereto; every industrial farm, poor house, alms house, orphan asylum, house of industry and lunatic asylum; every house belonging to a company for the reformation of offenders, and the real and personal property belonging to or connected with the same; the property of every public library, mechanic's institute and other public library or scientific institution, and of every agricultural or horticultural society actually occupied by such society; the houses and premises of any officers, non-commissioned officers or privates of Her Majesty's regular army or navy in actual service, not exceeding \$2,000 in value.

Section 612, sub-section 2, authorizes the council of every township, city, town and incorporated village to make by-laws for "assessing and levying by means of a special rate the cost of deepening any stream, creek or watercourse, and draining any locality, or making, enlarging and prolonging any common sewer or opening, widening, prolonging, or altering, macadamizing, grading, levelling, paving or planking any street, lane, alley, public way or place, or any sidewalk, or any bridge forming part of a highway therein, or curbing, sodding or planking any street, lane, alley, square or other public place," and sub-section 4 provides that, subject to certain provisions specified, "the special rate to be so assessed and levied shall be an annual rate, according to the frontage thereof, upon the real property fronting upon the street or place whereon or wherein such improvement or work is proposed to be done or made. Section 626 of the Municipal Act provides that the land on which a place of worship is erected and land used in connection therewith may be assessed for any local improvement in the same manner and to the same extent as other land benefited by the improvement, if a by-law to that effect be passed or two-thirds of the owners representing at least one-half the value of the land petition the council to undertake the improvement.

The real estate exempt from taxation in Massachusetts is the property of the United states; the property of the commonwealth; the land sold by the commonwealth at a date named and not built upon or otherwise improved meantime by the purchasers, for three years after the date of sale; the real estate belonging to literary, benevolent, scientific and charitable institutions, occupied by them or their officers for the purposes for which they were incorporated, provided that no income or profits from the business of such institution are divided amongst the members or shareholders, and that no part of the estate is used for other than literary, educational, benevolent, charitable, scientific or religious purposes; all property belonging to common school districts, the income of which is appropriated to the purposes of education; the Bunker Hill monument; houses of religious worship owned by a religious society or held in trust for religious organizations, but portions of such houses appropriated for purposes other than religious worship shall be taxed at the value thereof; cemeteries, tombs and rights of burial, so long as the same shall be dedicated for the burial of the dead; the estate of agricultural societies; property to the amount of \$500 of a widow or unmarried woman above the age of twenty-one years, of any person above the age of seventy-five years and of any minor whose father is deceased, provided the whole estate real and personal of such person does not exceed in value the sum of \$1,000; any city or town may exempt the property used for manufacturing sugar from beets from taxation for ten years, and lands planted with chestnut, hickory, oak, elm and some other kinds of trees are exempted for ten years from the time of planting.

Article 9, section 3, of the constitution of Illinois provides that "the property of the state, counties and other municipal corporations, both real and personal, and such other

property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes may be exempted from taxation, but such exemption shall only be by general law." The statute headed "Revenue" (chapter 120) provides (section 2) that "all lands donated by the United States for school purposes, not sold or leased; all public school houses; all property of institutions of learning, including the real estate on which the institutions are located, not leased by such institutions or otherwise used with a view to profit; all church property actually and exclusively used for public worship when the land, to be of reasonable size for the location of the church building, is owned by the congregation; all lands used exclusively as graveyards or grounds for burying the dead; all unentered government lands; all public buildings or structures of whatsoever kind and the contents thereof and the lands on which the same are located belonging to the United States; all property of every kind belonging to the state of Illinois; all property belonging to any county, town, village or city used exclusively for the maintenance of the poor; all swamp or overflowed lands so long as the same remain unsold by such county; all public buildings belonging to any county, township, city or incorporated town with the ground on which such buildings are erected not in any case to exceed ten acres; all property of institutions of purely public charity when actually and exclusively used for such charitable purposes, not leased or otherwise used with a view to profit, and all free public libraries; all fire engines and other implements used for extinguishing fires, the buildings used exclusively for their safe keeping and the lots, of reasonable size, on which such buildings are erected; all market houses, public squares and other public grounds used exclusively for public purposes; all works, machinery and fixtures belonging exclusively to any town, village or city and used exclusively for conveying water to such town, village or city; all property which may be used exclusively by societies for agricultural, horticultural, mechanical and philosophical purposes and not for pecuniary profit."

Municipal properties are so expressly exempted in order that they may not be subject to taxation for state purposes.

The list of exemptions of real estate is substantially the same in nearly all the states. The constitution of Missouri, however, provides that "no property real or personal shall be exempt from taxation except such as may be used exclusively for public schools and such as may belong to the United States, to this state, to counties or to municipal corporations within this state;" and the constitution of California, article 11, section 13, provides that "all property in this state shall be taxed in proportion to its value to be ascertained as directed by law." Article 4, section 37, makes it the duty of the legislature to provide for the organization of cities and incorporated villages and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses. California is, we believe, the only state in which churches are taxed.

EXEMPTIONS—PERSONAL PROPERTY.

²The personal property exempt by law from taxation in Ontario is the personal property and official income of the Governor-General and the official income of the Lieut.-Governor, the full or half-pay of officers of the Imperial army and navy. Any pension, salary, or gratuity, or stipend derived by any person from Her Majesty's Imperial treasury, and the personal property of any person in such naval or military service on full pay or otherwise in actual service; all pensions of \$200 a year and under payable out of the public moneys of the Dominion of Canada or of the province; the income of a farmer derived from his farm, and the incomes of merchants, mechanics or other persons derived from capital liable to assessment; the annual income of any person derived from his earnings provided the same does not exceed \$700; the annual income of any person to the amount of \$400 provided the same does not exceed \$1,000; the stipend or salary of any clergyman or minister in actual connection with a church and doing duty as such clergyman to the extent of \$1,000: the parsonage of such clergyman or residence other than a parsonage and land not exceeding two acres, the whole not exceeding \$2,000 in value; rental or other income derived from real estate except interest on mortgages; the

salaries of certain officers of the superior courts appointed before March 5th, 1880 ; and all grain, cereals, flour, live or dead stock, the produce of the farm or field, in store or warehouse, . . . solely for the *bona fide* purpose of being conveyed by water or railway for shipment or sale at some other place ; so much of the personal property of any person as is invested in mortgage upon land, or is due to him on account of the sale of land, the fee or freehold of which is invested in him or is invested in the debentures of the Dominion, of the province, or of any municipal corporation thereof ; stock in any incorporated company whose personal estate is liable to assessment in the province ; stock in railroad companies, shares in building societies, money invested in a company incorporated for the purpose of lending money on the security of real estate—only the interest or dividends derived from such stocks, shares or investments being liable to assessment ; personal property owned out of the province ; so much of the personal property of any one as is equal to the just debts owed by him on account of such property, except debts secured by mortgage on his real estate or “unpaid on account of the purchase money therefor ; the net personal property of any one when it is under \$100 in value ; household effects of whatsoever kind, books and wearing apparel ; steamboats, sailing vessels, tow barges and tugs, the income derived from which only is liable to assessment.

Chapter 29 of the Statutes of Ontario of 1888 so amends the Assessment Act as to exempt from taxation “all horses, cattle, sheep and swine which are held by any owner or tenant of any farm, and when such owner or tenant is carrying on the general business of farming or grazing.”

In Massachusetts the only incomes from a profession, trade or employment that are liable to assessment are those which exceed \$2,000 a year. Virginia is the only other state in which such incomes are taxed ; annuities derived from a source not liable to taxation are generally assessed.

In Massachusetts the personal property of literary, benevolent and charitable institutions ; the wearing apparel and farming utensils of every person ; his household furniture not exceeding \$1,000 in value, and the necessary tools not exceeding \$300 in value of a mechanic ; the personal property of incorporated agricultural societies ; the property of a widow, of an unmarried woman above the age of twenty-one years, of a person above the age of seventy-five, and of a minor whose father is deceased—to the amount of \$500 ; mules, horses and neat cattle less than one year old, and swine and sheep less than six months' old ; the polls and any portion of the estates of persons who by reason of age, infirmity and poverty are in the judgment of the assessors unable to contribute fully towards the public charges. Only the income derived from vessels engaged in the foreign trade are liable to assessment. The only deduction made on account of debts due is described in section 4, which provides that all persons are to be assessed on “money at interest and other debts due the persons to be taxed more than they are indebted or pay interest for not including any loan on mortgage of real estate.”

In Michigan household furniture not exceeding in value \$200 ; spinning and weaving looms and apparatus not exceeding in value \$50 ; such arms and accoutrements as any person is required by law to keep ; all wearing apparel of every person and family ; the library and school books of an individual or family not exceeding in value \$150, and all family pictures ; “to each household fifteen sheep with their fleeces, and the yarn and cloth manufactured from the same, two cows, five swine, and provisions and fuel for the comfortable subsistence of such household and family for six months, and all musical instruments kept for use not exceeding in value \$100 ;” the personal property of all literary, benevolent, charitable, and scientific institutions incorporated within the state, and the personal property of persons who, on account of age, infirmity or poverty, are unable to contribute towards the public charges are exempt from taxation.

In the state of Illinois no personal property belonging to individuals or to corporations or associations other than those of a religious, charitable, scientific or literary character is exempt from taxation, and all persons are required to describe their personal property with great minuteness in the list furnished to the assessors. Of the thirty-six columns of that list one is for “every watch and clock,” another for the value of gold or

silver-plate or plated ware, another for the value of diamonds and jewelry, another for sewing and knitting machines, another for every pianoforte, and another for the value of agricultural tools, implements and machinery. In this state also a person to be taxed can only deduct the amount he owes—not secured by mortgage—from the amount due to him. The law says “In making up the amount of credits which any person is required to list for himself . . . he shall be entitled to deduct from the gross amount of credits, the amount of all *bona fide* debts owing by such person . . . for a consideration received.”

In Ohio personal property belonging to an individual to the value of \$200 may be exempt from taxation.

In Great Britain neither income nor personal property is taxed for municipal purposes. Churches and charitable, educational, scientific and literary institutions are exempt from taxation,

EXPENDITURE.

Besides the general provision that the taxes shall not exceed a certain percentage on the assessed value of real and personal property other means of limiting expenditure are frequently employed. In New York, Brooklyn, Cincinnati and other cities of the United States the estimates for the ordinary annual expenditures are prepared by boards of estimates, whose members are not all members of the council, and when submitted to the council may be reduced, but not increased; or, after they have been prepared by a committee of the council, and passed by the council, are submitted to a board which may cut down any or all of the items. In Cincinnati the passing of the estimates is an intricate process. The Ontario Municipal Act, sec. 359, says: “The council of every county or local municipality shall, every year, make estimates of all sums which may be required for the lawful purposes of the county or local municipality for the year in which sums are required to be levied, . . . making due allowance for the cost of collection and of the abatement and losses which may occur in the collection of the tax and for taxes on the lands of non-residents which may not be collected.” The usual mode of proceeding is that the finance committee prepare estimates which are submitted to the council and changed as the council pleases. Sec. 360 provides that “the council . . . may pass one by-law or several by-laws authorizing the levying and collecting of a rate or rates of so much in the dollar upon the assessed value of the property therein as the council deems sufficient to raise the sums required on such estimates.” Expenditures, when the amount is to be raised by loan, must in most cases be approved of by the electors at the polls. In Ontario the ratepayers may be called upon to vote on such questions several times every year. In some of the cities of the United States questions as to extraordinary expenditures can be submitted to the ratepayers only at the regular annual “charter” elections, and three months’ notice must be given.

DEBT.

Everywhere limitations are placed on the powers of municipalities to impose taxes and incur debts. In England the purposes for which the council of a borough can borrow under the provisions of the General Municipal Act are few, and even in these cases the assent of the treasury board must be obtained. In other municipalities it is necessary to obtain the assent of the local government board. This assent is usually provisional and does not take full effect until it has received the sanction of parliament. To the amount of debt which may be incurred, even in that way, limits are set. In several of the United States, as in Ontario the assent of the ratepayers on property given at the polls is necessary to give validity to a by-law authorizing the making of a loan, except such loan as is made in anticipation of the revenue of the current year. In Brooklyn, N.Y., the council are not permitted to borrow unless the proposition has been formally submitted to the electors at a regular charter meeting, three months notice having been given and has received the affirmative vote of a majority of the voters at such election. “If it receive such majority the council which is in office after such election may, by a majority of all the mem-

bers elected, confirm the loan and direct the issue of bonds." The council of New York city cannot borrow without express legislative authority. Such express legislative sanction in all extraordinary cases is required in England, and in all cases is required by the councils of the cities of New Brunswick and of other cities. The limit to the power of taxation and the amount of debt is usually regulated by the assessed value of the ratable property. Any increase in the assessed value of the property extends the limit. The general introduction of the local improvement system also enlarges the power to tax and the power to borrow, as taxes imposed and debts incurred under that system are not accounted part of the general taxation or of the general indebtedness. Money borrowed to pay for water works and other works of that class purchased or constructed by a municipality are also in most cases treated as exceptional and not taken into account in determining whether the limit of indebtedness has been reached.

AUDIT.

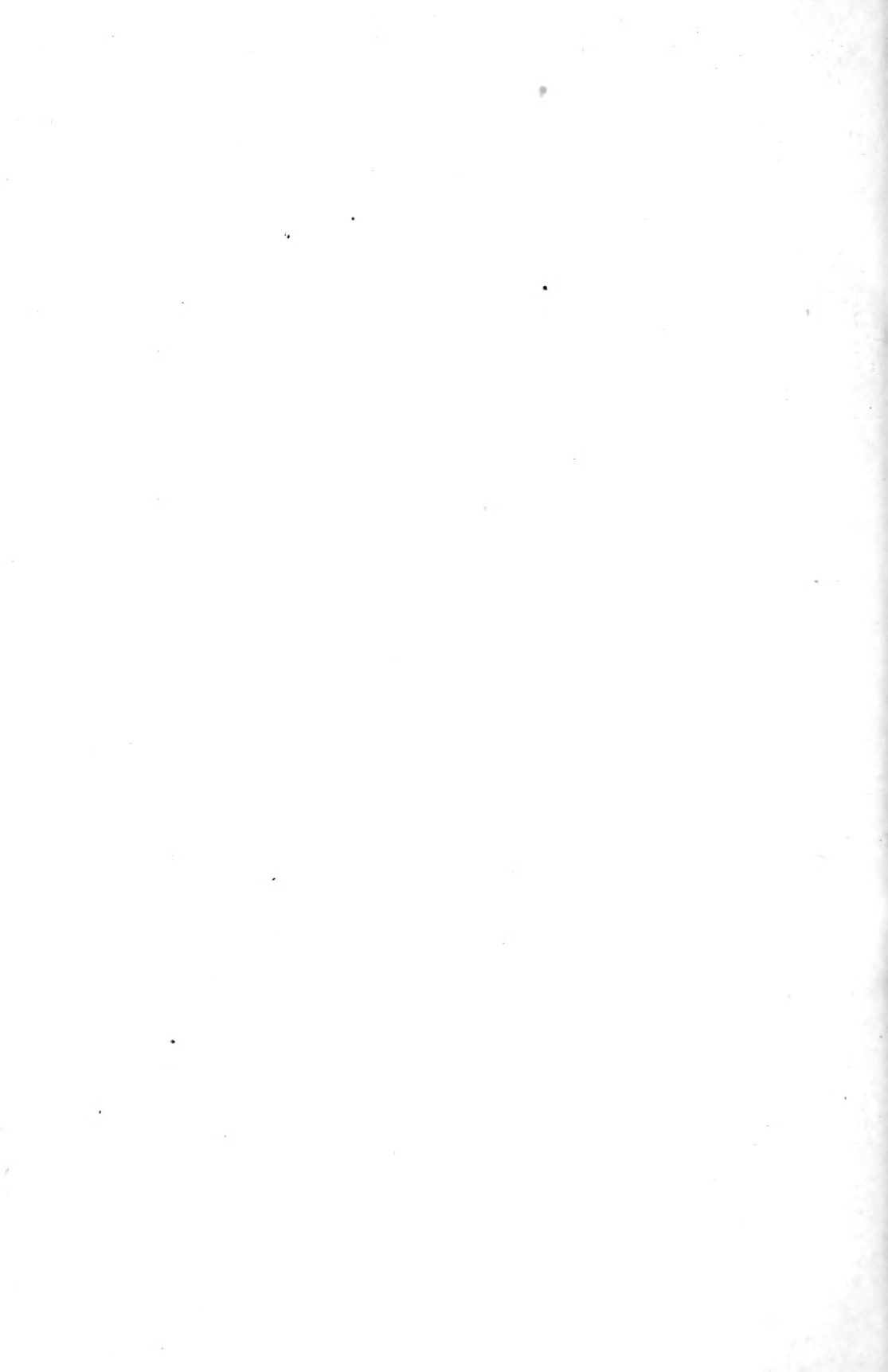
Section 258 of the Ontario Municipal Act provides that subject to the provisions of the two following sections as to cities:—"Every council shall, at the first meeting thereof in every year after being duly organized, appoint two auditors, one of whom shall be such person as the head of the council nominates; but no one who at such time or during the preceding year is or was a member or is or was clerk or treasurer of the council," or who had an interest in any contract or employment with or under the corporation can be appointed. The appointment of one of the auditors by the head of the corporation is taken from the English municipal system. The next two sections provide that "the council of the City of Toronto shall, during the month of December in each year, appoint two auditors," and that the council of any other city may by by-law, fix the month of December as the time in which they shall appoint auditors. Section 261 provides that the auditors in cities "shall, every month, commencing at the end of the first month of the year following the said month of December and so on to the end of such year examine and report upon all accounts affecting the corporation or relating to any matter under its control or within its jurisdiction." Section 263 provides that they shall examine and report upon all the accounts for "the year ending on the 31st day of December preceding their appointment," and that they "shall prepare in duplicate an abstract of the receipts, expenditures, assets and liabilities of the corporation, and also a detailed account of the same in such form as the council directs. They shall make a report on all accounts audited by them, and a special report of any expenditure made contrary to law." Section 264 enacts that the council of any city may by by-law, provide that the auditors shall audit all accounts before payment, and section 268 that "in cities and towns the council may also appoint an auditor who shall daily or otherwise, as directed by the council, examine and report and audit the accounts of the corporation in conformity with any regulation or by-law of the council, and in other municipalities the auditors shall also, monthly or quarterly if directed by by-law, examine into and audit the accounts of the corporation."*

In England, as we have elsewhere stated, all municipal accounts are audited by officers appointed by the local government board which is a government department. These officers hold their positions during good behaviour and look to the local government board for promotion. Their audit is admittedly very thorough. In some of the United States the audit of the county accounts is very thorough, because state taxes are collected by the county officers, and the state authorities audit the accounts. Where the county, city, village and township taxes are collected by the same officer there is apparently effective control over the income, at least. The Massachusetts system, which is described at some length in our first report, deserves special attention. Where the township system exists

*As was shown in our first report these enactments have not proved sufficient to ensure a proper audit, either in all the cities, in all the towns or in all the townships. The annual appointment of auditors by the body which itself through its committees controls and manages all the expenditures cannot always prove satisfactory. Whether an attempt has been made in any case to establish a real pre-audit or a daily audit, we have been unable to ascertain. The investigation before the county judge proved conclusively that in Toronto there had not been such an audit as there ought to be where the expenditures are so large.

the assessors, collectors and auditors are in most cases elected at the town meetings, but in many cases the electors in their annual town meeting are themselves practically the auditors of the township accounts. In all the great cities of the United States in which municipal reform has been attempted, the position of the controller who is also auditor is of great importance. No account can be paid until it has been audited and certified by him, and his audit does not mean merely that an account has been rendered and that it has been certified by a member of the council or passed by a committee or by the council itself. The controller must be satisfied that the materials charged for have been actually furnished, that they are of the character described, that the prices charged are reasonable or according to contract; that work charged for has been done and that the proper price is charged for it. It is his duty to make careful examination in every case, and when he finds ground for suspicion to make thorough enquiry, calling witnesses whose attendance he is empowered to compel and whom he may examine under oath. No contract is valid until he has endorsed on it that the means to meet the obligation involved in it have been provided. No report of engineer, inspector, or other officer, or of a committee of the council, no resolution, or by-law of the council itself, justifies his passing an account in which an excessive or improper charge is made.

It is of the greatest importance that the person holding such a position should be honest, able and independent. In New York the comptroller is appointed by the mayor, but when appointed is independent. In Brooklyn, in Philadelphia and in Cincinnati the comptroller is elected by the people. A treatise in which the recent changes in the municipal government of Philadelphia are described says of the comptroller that "he is the most important and responsible officer in the city government," and that "his powers are very great, he is intended, as his name implies, to control the immense financial concerns of this great city. He is the guardian of the city treasury, and the honest administration of his office or the reverse is felt to the remotest branch of the city government. His salary which is fixed by act of the legislature cannot be touched by councils."



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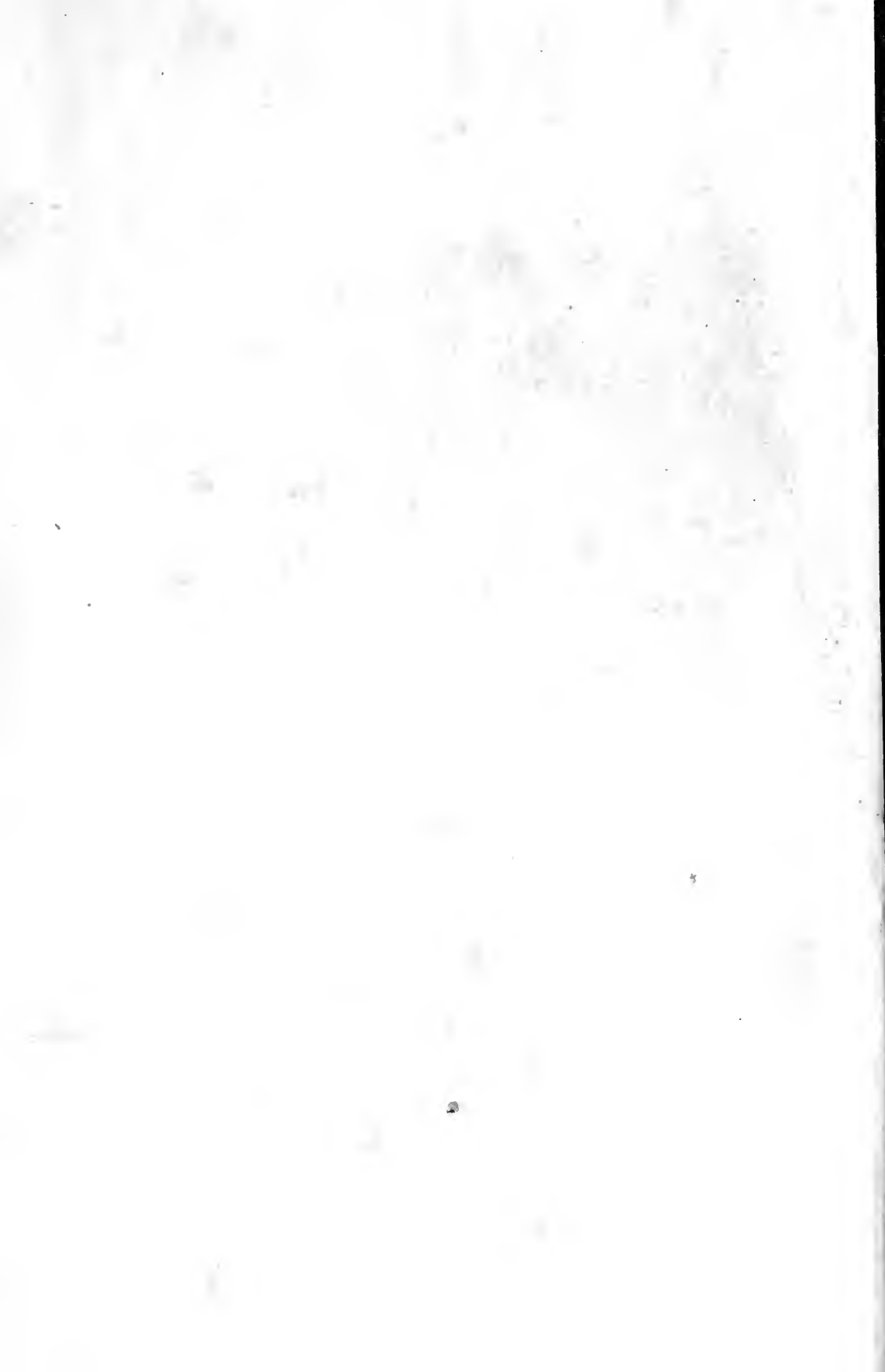
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